

AMENDED IN SENATE APRIL 29, 2003
AMENDED IN SENATE APRIL 21, 2003
AMENDED IN SENATE MARCH 28, 2003

SENATE BILL

No. 201

Introduced by Senator Romero

February 13, 2003

An act to amend Section 8610.5 of the Government Code, and to amend Sections 107100 and 114650 of, to amend the heading of Article 3 (commencing with Section 114662) of Chapter 4 of Part 9 of Division 104 of, to add Chapter 6.68 (commencing with Section 25271) and Chapter 6.69 (commencing with Section 25279) to Division 20 of, and to repeal ~~and add~~ Chapter 5 (commencing with Section 114705) and Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of, the Health and Safety Code, relating to radioactive materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as amended, Romero. Radioactive materials: transfer of authority.

(1) The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses for using, manufacturing, producing, transferring, receiving, acquiring, owning, or possessing radioactive materials, to register and inspect sources of ionizing radiation, and to take specified actions to enforce that law. Under existing law, the Southwestern Low-Level Radioactive Waste Disposal Compact specifies that California is required to host the regional low-level radioactive waste disposal facility for the permanent isolation of low-level radioactive waste.

Under existing law, the fees, penalties, interest earned, and fines imposed under the Radiation Control Law and for the regulation of nuclear medicine and radiologic technology are deposited in the Radiation Control Fund in the State Treasury and the department is authorized to expend the money in the fund, upon appropriation by the Legislature, for the costs related to the enforcement of that law and for certain provisions regulating radiologic technology and nuclear medicine. A violation of the Radiation Control Law is a crime.

This bill would repeal the Radiation Control Law and would enact the Radioactive Materials Management Act, which would transfer the authority of the State Department of Health Services under that law, ~~except as specified,~~ to the Department of Toxic Substances Control. The bill would establish the Radioactive Materials Control Fund in the State Treasury, and would require that all fees, penalties, interest earned, and fines collected under the Radioactive Materials Management Act be deposited in the fund, for expenditure by the department, upon appropriation by the Legislature, to implement and enforce that act.

~~The bill would also enact the Nuclear Medicine and Radiological Materials Licensing Act and would authorize the State Department of Health Services to regulate, under that act, radioactive materials or sources of ionizing radiation that are located onsite at a health care facility, as defined, or are used in the performance of nuclear medicine technology. The bill would exclude, from the Nuclear Medicine and Radiological Materials Licensing Act, those radioactive materials or sources of ionizing radiation being transported to, or transported offsite from, a health care facility or a location used for the conduct of nuclear medicine technology or materials or sources that are discarded, relinquished, abandoned, or otherwise emitted into the air or discharged into the environment.~~

The bill would create the Nuclear Medicine and Radiological Materials Control Fund in the State Treasury, and would require the fees and penalties collected under ~~the Nuclear Medicine and Radiological Materials Licensing Act and~~ under certain provisions regulating radiologic technology and nuclear medicine, *including certain moneys in the Radiation Control Fund*, to be deposited in the Nuclear Medicine and Radiological Materials Control Fund. The bill would authorize the State Department of Health Services to expend the money in the fund to implement and enforce ~~the Nuclear Medicine and Radiological Materials Licensing Act and~~ those other provisions.



(2) Existing law prohibits a person from burying, throwing away, or in any manner disposing of radioactive wastes within the state except in a manner and at locations that will result in no significant radioactive contamination of the environment. Existing law authorizes the State Department of Health Services, by written order, to prohibit the disposal of radioactive wastes by any person when, upon investigation, it has determined that the disposal violates existing provisions concerning radioactive contamination. Existing law also authorizes the State Department of Health Services to adopt and enforce regulations to promote the safe transportation of radioactive materials.

This bill would transfer the authority of the department in those matters to the Department of Toxic Substances Control and would reenact those provisions in the Radioactive Materials Management Act. Because the bill would impose new penalties for a violation of those requirements, the bill would impose a state-mandated local program by creating new crimes.

~~The bill would increase the amount of the terms of imprisonment and fines imposed under the Radioactive Materials Management Act and would additionally allow a person convicted of the theft of any amount of a radioactive material to be punished by imprisonment in the state prison for 3, 5, or 7 years, to be fined up to \$250,000 for each day of violation, or by both that fine and imprisonment. The bill would authorize the department to issue an order imposing an administrative penalty of \$5,000 per day, per offense, upon any person who intentionally or through gross negligence violates the Radioactive Materials Management Act or who fails or refuses to comply with a cease and desist order or other order issued by the department under that act. The bill would specify a procedure for the issuance of an order imposing an administrative penalty and conducting a hearing on that matter.~~

The bill would direct the department to require any person applying for a license under the Radioactive Materials Management Act to submit a disclosure statement containing specified information. The department would be required to submit the fingerprint cards or electronic fingerprint images and related identification information to the Department of Justice.

The bill would prohibit a person from selling, transferring, or leasing radioactively contaminated property ~~for any subsequent land use~~ until the department certifies that the radioactive contamination has been remediated, *except as specified*. The bill would prohibit the department



from certifying that the radioactive contamination is remediated unless the remediation is conducted pursuant to specified standards, guidance, procedures, and practices.

(3) *Existing law requires the Office of Emergency Services, if there is a nuclear powerplant accident, to coordinate information and resources to support local governments in a joint state and local government decisionmaking process. Existing law requires the State Department of Health Services to have the lead technical role during the ingestion pathway and recovery phases, to define and maintain a radiological advisory team, and to maintain a list of medical facilities that meet statewide guidelines. Existing law requires each public utility operating a nuclear powerplant to consult with the State Department of Health Services regarding the establishment of offsite radiation monitoring devices.*

This bill would transfer these duties and authority to the Department of Toxic Substances Control.

(4) The bill would authorize the Department of Toxic Substances Control to expend the unexpended balance of funds that are available for expenditure by the State Department of Health Services for the functions transferred by the bill.

The bill would transfer, to the Department of Toxic Substances Control, all of the officers and employees of the State Department of Health Services who are performing any duty, power, purpose, responsibility, or jurisdiction that is transferred by the bill. The bill would also transfer to the Department of Toxic Substances Control specified records, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the State Department of Health Services with regard to the functions of the State Department of Health Services transferred to the Department of Toxic Substances Control by the bill.

The bill would transfer the functions of and specified positions and personnel in the radiological health and environmental management branches of the State Department of Health Services to the Department of Toxic Substances Control.

~~(4)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 8610.5 of the Government Code is*
2 *amended to read:*
3 8610.5. (a) For purposes of this section, the following
4 definitions shall apply:
5 (1) “Department” means the ~~State Department of Health~~
6 ~~Services~~ *Department of Toxic Substances Control*.
7 (2) “Office” means the Office of Emergency Services.
8 (b) (1) State and local costs to carry out activities pursuant to
9 this section and Chapter 4 (commencing with Section 114650) of
10 Part 9 of Division 104 of the Health and Safety Code that are not
11 reimbursed by federal funds shall be borne by utilities operating
12 nuclear powerplants with a generating capacity of 50 megawatts
13 or more.
14 (2) The Public Utilities Commission shall develop and transmit
15 to the office an equitable method of assessing the utilities operating
16 the powerplants for their reasonable pro rata share of state agency
17 costs specified in paragraph (1).
18 (3) Each local government involved shall submit a statement of
19 its costs specified in paragraph (1), as required, to the office.
20 (4) Upon each utility’s notification by the office, from time to
21 time, of the amount of its share of the actual or anticipated state and
22 local agency costs, the utility shall pay this amount to the
23 Controller for deposit in the Nuclear Planning Assessment Special
24 Account, which is continued in existence, for allocation by the
25 Controller, upon appropriation by the Legislature, to carry out
26 activities pursuant to this section and Chapter 4 (commencing with
27 Section 114650) of Part 9 of Division 104 of the Health and Safety
28 Code. The Controller shall pay from this account the state and local
29 costs relative to carrying out this section and Chapter 4
30 (commencing with Section 114650) of Part 9 of Division 104 of
31 the Health and Safety Code, upon certification thereof by the
32 office.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the office pursuant to paragraph (4). The office shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from the utilities operating the nuclear powerplants within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels previously established by Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, as that chapter read on January 1, 1998, subject to subdivisions (e) and (f), to be shared equally among the utilities.

(2) Of the initial annual amount of one million three hundred forty thousand dollars (\$1,340,000) for the 1999–2000 fiscal year, the sum of eight hundred three thousand dollars (\$803,000) shall be for support of the office for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of five hundred thirty-seven thousand dollars (\$537,000) shall be for support of the department for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 1999, of local costs from the utilities shall not exceed the lesser of the actual costs or the maximum funding levels, on a site basis, previously established on a per reactor basis by Section 1 of Chapter 1607 of the Statutes of 1988, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum initial annual amount available for disbursement for local costs, subject to subdivisions (e) and (f), shall be eight hundred fifty-one thousand dollars (\$851,000) for the Diablo Canyon site and one million seventy-three thousand dollars (\$1,073,000) for the San Onofre site.

(2) The amounts paid by the utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) The amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the percentage increase in the California Consumer Price Index of the previous calendar year.

(f) Through the date specified in subdivision (g), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year when the state and local governments conduct a full participation exercise, as defined in Section 350.2 of Title 44 of the Code of Federal Regulations, that is not evaluated by the Federal Emergency Management Agency, shall be carried over to the year when the state and local governments conduct such an exercise that is evaluated by the Federal Emergency Management Agency.

(g) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

(h) Upon inoperation of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto.

SEC. 2. Chapter 6.68 (commencing with Section 25271) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.68. RADIOACTIVE MATERIALS MANAGEMENT ACT

Article 1. Findings and Definitions

25271. (a) The Legislature finds and declares that radioactive contamination of the environment may subject the people of the State of California to unnecessary exposure to ionizing radiation unless it is properly controlled. It is, therefore, declared to be the policy of this state that the department initiate and administer necessary programs of surveillance and control of those activities that could lead to the introduction of radioactive materials into the environment.

(b) This chapter shall be known, and may be cited, as the Radioactive Materials Management Act.

1 25271.5. For purposes of this chapter, except as provided in
2 Section 25274, the following definitions apply:

3 (a) “Department” means the Department of Toxic Substances
4 Control.

5 (b) “Environment” means all places outside the control of the
6 person responsible for the radioactive materials.

7 (c) “Field tracer study” is any project, experiment, or study
8 that includes provision for deliberate introduction of radioactive
9 material into the environment for experimental or test purposes.

10 (d) “Person” includes any association of persons,
11 copartnership, or corporation.

12 (e) “Radiation,” or “ionizing radiation,” means gamma rays
13 and X-rays; alpha and beta particles, high-speed electrons,
14 neutrons, protons, and other nuclear particles, but does not include
15 sound or radio waves, or visible, infrared, or ultraviolet light.

16 (f) “Radioactive material” means any material or combination
17 of materials that spontaneously emits ionizing radiation.

18 (g) “Radioactive waste” means any radioactive material that
19 is discarded as nonusable.

20 (h) “Significant” or “significantly,” as applied to radioactive
21 contamination, means concentrations or amounts of radioactive
22 material that is likely to expose persons to ionizing radiation equal
23 to, or greater than, the guide levels published by the United States
24 Environmental Protection Agency.

25 (i) “Radiological monitoring” means the measurement of the
26 amounts and kinds of radioactive materials in the environment.

27 25271.6. This chapter does not apply to any radioactive
28 material or source of ionizing radiation that is regulated pursuant
29 to Chapter 8 (commencing with Section 114960) of Part 9 of
30 Division 104.

31
32 Article 2. Control of Radioactive Contamination of the
33 Environment
34

35 25272. (a) A person may not bury, throw away, or in any
36 manner dispose of, radioactive wastes within the state except in a
37 manner and at locations that will result in no significant
38 radioactive contamination of the environment.

1 (b) The department may, by written order, prohibit the disposal
2 of radioactive wastes by any person when, upon investigation, the
3 department determines that the disposal violates subdivision (a).

4 (c) The department may, by written order, prohibit the storage,
5 packaging, transporting, or loading of radioactive wastes if there
6 is a reasonable likelihood that the activities will result in
7 significant radioactive contamination of the environment.

8 25272.1. (a) A person to whom an order has been issued
9 pursuant to subdivision (b) or (c) of Section 25272 may appeal the
10 order of the department to any court of competent jurisdiction.

11 (b) The department may commence an action in a court of
12 competent jurisdiction to enjoin the storage, packaging,
13 transporting, loading, or disposal of radioactive wastes in violation
14 of any written order issued by the department pursuant to
15 subdivision (b) or (c) of Section 25273. The court may, if it appears
16 necessary, enjoin any person from using radioactive material who
17 thereby produces radioactive waste that the court finds is being
18 disposed of in violation of this article.

19 25272.2. (a) The department shall maintain surveillance
20 over the storage, packaging, transporting, and loading of
21 radioactive material within this state regardless of the material's
22 ultimate destination.

23 (b) In carrying out its duties under this section, the department
24 may enter into an agreement with the Division of Occupational
25 Safety and Health and other state and local agencies to conduct any
26 appropriate inspection and enforcement activities. Any agreement
27 with state and local agencies shall not duplicate work to be done
28 pursuant to agreement with the Division of Occupational Safety
29 and Health, and any work done by the Division of Occupational
30 Safety and Health shall not duplicate work agreed to be done by
31 other state and local agencies.

32 (c) This section does not apply to any licensee of the Nuclear
33 Regulatory Commission or any facility of the Department of
34 Energy or the Department of Defense.

35 25272.3. (a) No person may operate a nuclear reactor,
36 nuclear fuel reprocessing plant, or other installation, as defined by
37 the department, that could, as a result of routine operations,
38 accident, or negligence, significantly contaminate the
39 environment with radioactive material, without first instituting
40 and maintaining an adequate program of radiological monitoring.

1 The proposed program shall be submitted to the department for
2 review and acceptance as to its adequacy.

3 (b) No person may conduct any field tracer study unless
4 detailed plans of the study have been approved by the department.
5 In reviewing proposed field tracer studies, the department shall
6 consider at least all of the following elements:

7 (1) There is shown to be a substantial public interest in the
8 information intended to be obtained by the study.

9 (2) The study will be performed by persons or agencies
10 competent to handle and use the radioactive material safely and
11 with due regard for potential effects on public health.

12 (3) The study is planned so as to impose the least possible
13 exposure to ionizing radiation consistent with achieving the
14 study's desired objectives.

15 (4) There is no likelihood that any person will be exposed to
16 ionizing radiation in excess of guide levels published by the United
17 States Environmental Protection Agency.

18 (c) The department may, as a condition to its approval of a field
19 tracer study, require a representative of the department to be
20 present during the study.

21 25272.5. (a) The department shall monitor radioactive
22 materials in the environment, including radioactive materials in
23 media such as air, milk, food, and water in locations and with a
24 frequency as the department may deem necessary to determine
25 radiation exposure to the people of the state from radioactive
26 materials.

27 (b) The department shall, at least once each month, make
28 public to news media the results of its monitoring of radioactive
29 materials.

30 25272.6. The department shall review any regulation relating
31 to radioactive materials cargo, including, but not limited to,
32 packing, marking, loading, handling, and transportation, and
33 make the regulation compatible with the federal regulations
34 adopted pursuant to the federal Department of Transportation
35 Docket No. HM-164, Notice No. 80-1, within 60 days of the date
36 the federal regulations become effective.

37 25272.7. The department, utilizing available funds and in
38 cooperation with the Department of Fish and Game and the Joint
39 Committee on Fisheries and Aquaculture, shall do all of the
40 following:



1 (a) Cooperate with any federal agency that conducts
2 monitoring of marine life or ocean waters, or both, at the sites of
3 radioactive waste dumping off the California coast to determine
4 the effects of the dumping.

5 (b) Purchase and test samples of seafood taken in the vicinity
6 of the Farallon Islands radioactive waste dump site to determine
7 whether the seafood contains radioactivity beyond natural and
8 artificial background levels.

9 (c) Make annual reports to the Legislature on the
10 implementation of this section, including any recommendations
11 for legislation it deems necessary to protect the health of
12 Californians.

13 (d) Request the State Department of Health Services to take
14 emergency action pursuant to the general authority contained in
15 the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing
16 with Section 109875) of Division 104) to prohibit the commercial
17 sale of seafood for human consumption if, in the judgment of the
18 State Director of Health Services, samples analyzed pursuant to
19 subdivision (b), are found to contain radioactivity that poses a
20 threat to human health.

21 25272.8. (a) The Legislature finds and declares that the
22 dumping of radioactive waste, including the scuttling of
23 radioactive nuclear submarines, into the Pacific Ocean, could
24 adversely affect the California coastal zone.

25 (b) The California Coastal Commission, in cooperation when
26 appropriate with the department, the Department of Justice, the
27 Department of Fish and Game, and the Joint Committee on
28 Fisheries and Aquaculture, shall use any means available to the
29 commission, pursuant to law, to prevent any dumping of
30 radioactive waste in the Pacific Ocean by any public or private
31 entity, unless the commission finds that the dumping would be
32 consistent with the goals and policies of Division 20 (commencing
33 with Section 30000) of the Public Resources Code.

34
35 Article 3. Transportation of Radioactive Materials
36

37 25273. (a) The department, with the assistance of the Office
38 of Emergency Services, the State Energy Resources Conservation
39 and Development Commission, and the Department of the
40 California Highway Patrol, shall extend the nuclear threat

1 emergency response plan to include radioactive materials in transit
2 and provide training for law enforcement officers in dealing with
3 those threats.

4 (b) The department, in cooperation with the Department of the
5 California Highway Patrol, shall adopt reasonable regulations
6 that, in the judgment of the department, promote the safe
7 transportation of radioactive materials, in accordance with Section
8 25272.6 and Chapter 3.5 (commencing with Section 11340) of
9 Part 1 of Division 3 of Title 2 of the Government Code. The
10 regulations shall do all of the following:

11 (1) Prescribe the use of signs designating radioactive material
12 cargo and designate, in accordance with the results of any studies
13 done pursuant to former subdivision (a) of Section 114820, as that
14 section read on January 1, 2003, the manner in which the shipper
15 shall give notice of the shipment to appropriate authorities.

16 (2) Prescribe the packing, marking, loading, and handling of
17 radioactive materials, and the precautions necessary to determine
18 whether the material when offered is in proper condition to
19 transport, excluding the equipment and operation of the carrier
20 vehicle.

21 (3) Be reviewed and amended, as required, pursuant to Section
22 25272.6.

23 (c) The department shall adopt and amend the regulations
24 required by subdivision (b) in a manner compatible with those
25 established by the federal agency or agencies required or permitted
26 by federal law to establish the regulations.

27 (d) In accordance with Section 25272.6, the Department of the
28 California Highway Patrol, after consulting with the department,
29 shall adopt regulations specifying the time at which shipments
30 may occur and the routes that are to be used in the transportation
31 of cargoes of hazardous radioactive materials, as those materials
32 are defined in regulations of the department.

33 25273.1. The regulations adopted by the department pursuant
34 to Section 25273 may be enforced by any of the following:

35 (a) Any authorized representative of the department.

36 (b) The Division of Industrial Safety of the Department of
37 Industrial Relations.

38 (c) The Public Utilities Commission.

39 (d) The health department of any city or county.

40 (e) The Department of the California Highway Patrol.

(f) Any traffic officer, as defined by Section 625 of the Vehicle Code.

25273.2. It is the intention of the Legislature, in enacting this article that the regulations adopted by the department pursuant to this article shall apply uniformly throughout the state, and that no state agency, city, county, or other political subdivision of this state, including a chartered city or county, may adopt or enforce any ordinance or regulation that is inconsistent with the regulations adopted by the department pursuant to this article.

25273.3. A violation of any regulation adopted by the department pursuant to this article shall be punishable pursuant to Article 9 (commencing with Section 25278).

Article 3.5. Radiation Monitoring Devices For Nuclear Powerplants

25273.4. *Each privately owned and publicly owned public utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more shall establish a system of offsite radiation monitoring devices as specified by the Nuclear Regulatory Commission pursuant to Regulatory Guide 1.97 or related standards. The utility shall consult with the department and the appropriate county emergency services agency regarding the type, number, and locations of the radiation monitoring devices. The consultation with the department and the appropriate county emergency services agency shall be completed prior to submitting a plan to the Nuclear Regulatory Commission regarding the radiation monitoring devices.*

25273.5. *The information transmitted to the radiation monitoring displays in the technical support center or emergency operating facility of a nuclear powerplant shall be simultaneously transmitted to the Office of Emergency Services State Warning Center.*

25273.6. *The Public Utilities Commission shall allow the funds expended by privately owned utilities in compliance with this article to be included for ratemaking purposes. A publicly owned utility shall include the funds expended complying with this article in its rates.*

1 25273.7. *A plant operator may not be required to spend more*
2 *than one million dollars (\$1,000,000) in capital outlay for a*
3 *nuclear powerplant site in complying with this chapter.*

4 25273.8. *This article does not require powerplant*
5 *modifications or the conduct of operations that may be in conflict*
6 *with conditions of the license to operate issued by the Nuclear*
7 *Regulatory Commission or with other activities authorized by the*
8 *Nuclear Regulatory Commission, or that may be in conflict with*
9 *the regulations of the Environmental Protection Agency.*

10 25273.9. *Failure to comply with this article shall not*
11 *constitute the basis for an action in a court of law or in an*
12 *administrative proceeding to enjoin or prevent the operation or*
13 *startup of a nuclear facility.*

14
15 Article 4. Radioactive Materials Licensing and Inspection

16
17 25274. Notwithstanding Section 25272, for purposes of this
18 article and Article 5 (commencing with Section 25275), Article 6
19 (commencing with Section 25276), Article 7 (commencing with
20 Section 25277), Article 8 (commencing with 25277.4), Article 9
21 (commencing with Section 25278), and Article 10 (commencing
22 with Section 25278.9), the following definitions shall apply:

23 (a) “Byproduct material” means any radioactive material,
24 except special nuclear material, yielded in, or made radioactive by
25 exposure to the radiation incident to, the process of producing or
26 utilizing special nuclear material.

27 (b) “Department” means the Department of Toxic Substances
28 Control.

29 (c) “Decontamination,” means the reduction of the level of
30 contamination from radioactive material to the level that the
31 department determines is reasonably necessary to eliminate the
32 hazard to public health that is caused by the contamination of any
33 object, building, structure, or premises.

34 (d) “Director” means the Director of Toxic Substances
35 Control.

36 (e) “Federal research and development activity” means any
37 activity of the Secretary of Energy conducted at any research
38 facility owned or operated by the United States Department of
39 Energy.

(f) “General license” means a license, issued pursuant to the regulations adopted by the department, that is effective without the filing of an application, to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially radioactive material.

(g) “Ionizing radiation” means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but does not include sound or radio waves, or visible, infrared, or ultraviolet light.

(h) “Low-level radioactive waste” means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or the byproduct material, as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014(e)(2)). For purposes of this subdivision, the following definitions shall apply:

(1) “High-level radioactive waste” means either of the following:

(A) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from this liquid waste that contains fission products in sufficient concentrations.

(B) Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

(2) “Spent nuclear fuel” means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(3) “Transuranic waste” means any waste containing more than 100 nanocuries of alpha emitting transuranic nuclides with half-life greater than five years per gram of waste material.

(i) “*Mammogram*” means an X-ray image of the human breast.

(j) “*Mammography*” means the procedure for creating a mammogram.

(k) “*Mammography quality assurance*” means the detection of a change in X-ray and ancillary equipment that adversely affects the quality of films and the glandular radiation dose, and the correction of this change.

1 (l) “Mammogram certification” means a certification, issued
2 by the department after registration, that the equipment dedicated
3 to or used for mammography meets the standards prescribed
4 pursuant to this chapter.

5 (m) “Person” means any individual, corporation, partnership,
6 limited liability company, firm, association, trust, estate, public or
7 private institution, group, agency, political subdivision of this
8 state, any other state or political subdivision or agency thereof, and
9 any legal successor, representative, agent, or agency of the
10 foregoing, other than the United States Nuclear Regulatory
11 Commission, the United States Department of Energy, or any
12 successor thereto, and other than federal government agencies
13 licensed by the United States Nuclear Regulatory Commission,
14 under prime contract to the United States Department of Energy,
15 or any successor thereto.

16 ~~(j)~~

17 (n) “Registration” means the reporting of possession of a
18 source of radiation and the furnishing of information with respect
19 thereto, in accordance with Section 25274.5.

20 ~~(k)~~

21 (o) “Secretary” means the Secretary of the Environmental
22 Protection Agency.

23 ~~(t)~~

24 (p) “Source material” means any of the following:

25 ~~(m)~~

26 (q) (1) Uranium, thorium, or any other material which the
27 department declares by rule to be source material after the United
28 States Nuclear Regulatory Commission, or any successor thereto,
29 has determined the material to be source material.

30 (2) Ores containing one or more of the materials specified in
31 paragraph (1), in a concentration that the department declares by
32 regulation to be source material after the United States Nuclear
33 Regulatory Commission, or any successor thereto, has determined
34 the material in that concentration to be source material.

35 ~~(n)~~

36 (r) “Special nuclear material” means any of the following:

37 (1) Plutonium, uranium 233, uranium enriched in the isotope
38 233 or in the isotope 235, and any other material that the
39 department declares by regulation to be special nuclear material
40 after the United States Nuclear Regulatory Commission, or any

1 successor thereto, has determined the material to be special nuclear
2 material.

3 (2) Any material artificially enriched by any of the material
4 specified in paragraph (1), not including source material.

5 ~~(e)~~

6 (s) “Specific license” means a license, issued after application,
7 to use, manufacture, produce, transfer, receive, acquire, own, or
8 possess quantities of, or devices or equipment utilizing,
9 byproduct, source, or special nuclear materials or other radioactive
10 material occurring naturally or produced artificially.

11 25274.1. (a) It is the policy of the State of California, in
12 furtherance of its responsibility to protect the public health and
13 safety, to institute and maintain a regulatory program for sources
14 of ionizing radiation so as to provide for all of the following:

15 (1) Compatibility with the standards and regulatory programs
16 of the federal government.

17 (2) An integrated effective system of regulation within the
18 state.

19 (3) A system consonant insofar as possible with those of other
20 states.

21 (b) It is the purpose of this chapter to effectuate the policies set
22 forth in subdivision (a) by providing for programs to do all of the
23 following:

24 (1) Effectively regulate sources of ionizing radiation for the
25 protection of the occupational and public health and safety.

26 (2) Promote an orderly regulatory pattern within the state,
27 among the states, and between the federal government and the
28 state, and facilitate intergovernmental cooperation with respect to
29 use and regulation of sources of ionizing radiation to the end that
30 duplication of regulation may be minimized.

31 (3) Establish procedures for assumption and performance of
32 certain regulatory responsibilities with respect to byproduct,
33 source, and special nuclear materials.

34 (4) Permit maximum utilization of sources of ionizing
35 radiation consistent with the health and safety of the public.

36 (c) The department shall, for the protection of public health and
37 safety do all of the following:

38 (1) Develop programs for evaluation of hazards associated
39 with use of sources of ionizing radiation.

1 (2) Develop programs, with due regard for compatibility with
2 federal programs, for licensing and regulation of byproduct,
3 source, and special nuclear materials, and other radioactive
4 materials.

5 (3) Except as provided in Section 18930, adopt regulations
6 relating to control of other sources of ionizing radiation.

7 (4) Issue any regulations that may be necessary in connection
8 with proceedings under this article.

9 (5) Collect and disseminate information relating to control of
10 sources of ionizing radiation, including all of the following:

11 (A) Maintenance of a file of all license applications, issuances,
12 denials, amendments, transfers, renewals, modifications,
13 suspensions, and revocations.

14 (B) Maintenance of a file of all regulations relating to
15 regulation of sources of ionizing radiation, pending or adopted,
16 and proceedings thereon.

17 (C) Disseminate information regarding the evaluation of
18 hazards associated with the use of sources of ionizing radiation.

19 (d) This chapter does not prohibit the Division of Occupational
20 Safety and Health from adopting and enforcing regulations
21 relating to matters within its jurisdiction consistent with, in
22 furtherance of, and designed to implement this chapter and the
23 regulations adopted pursuant to this chapter.

24 25274.2. The department shall adopt all regulations pursuant
25 to this chapter in accordance with Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
27 Code, and Section 114920 of this code.

28 25274.3. The Radioactive Materials Control Fund is hereby
29 established in the State Treasury. All moneys, including fees,
30 penalties, interest earned, and fines collected under this chapter
31 and the regulations adopted pursuant to this chapter shall be
32 deposited in the Radioactive Materials Control Fund and may be
33 expended by the department, upon appropriation by the
34 Legislature, to implement and enforce this chapter. In addition to
35 any moneys collected by, or on behalf of, the department for
36 deposit in the Radioactive Materials Control Fund,
37 notwithstanding Section 16475 of the Government Code, all
38 interest earned by the fund shall be deposited in the fund.

39 25274.4. (a) The department is designated as the agency
40 responsible for the issuance of licenses. In carrying out its duties

under this section, the department may enter into an agreement with the Division of Occupational Safety and Health and other state and local agencies to conduct technical evaluations of license applications prior to issuance of licenses. The agreements shall also include provisions for conducting inspections pursuant to Section 25274.10.

(b) The authority of the department to issue licenses pursuant to subdivision (a) is not affected by any requirements to conduct studies or planning efforts specified in Section 25275.1.

25274.5. (a) The department shall provide by regulation for general or specific licensing of persons to receive, possess, or transfer radioactive materials, or devices or equipment utilizing these materials. The regulations shall provide for amendment, suspension, or revocation of licenses.

(b) The department may require registration and inspection of sources of ionizing radiation other than those that require a specific license, and compliance with specific safety standards to be adopted by the department.

(c) The department may exempt certain sources of ionizing radiation or kinds of uses or users from the licensing or registration requirements set forth in this section if the department finds that the exemption of these sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

(d) The department may provide, in the regulations adopted pursuant to this chapter, for recognition of other state or federal licenses that the department may deem desirable, subject to the registration requirements that the department may prescribe.

(e) The department shall adopt registration and certification regulations for mammography equipment. These regulations shall include, but not be limited to, all of the following requirements:

(1) An X-ray machine used for mammography shall be specifically designed for mammography and inspected by the department, or deemed satisfactory by the department based upon evidence of certification by the American College of Radiology mammography accreditation program, or an accreditation program that the department deems equivalent before it is certified.

(2) That all persons who have a certificate for mammography equipment follow a quality assurance program to be adopted by

1 *the department to ensure the protection of the public health and*
2 *safety.*

3 *(3) That quality assurance tests, as determined by the*
4 *department, are performed on all mammography equipment*
5 *located in a mobile van or unit after each relocation of the mobile*
6 *van or unit to a different location for the purpose of providing*
7 *mammography. This equipment shall be recalibrated if images are*
8 *not of diagnostic quality as determined by the department. A*
9 *written record of the location of mobile vans or units with dates and*
10 *times shall be maintained and available for inspection by the*
11 *department.*

12 *(4) On or after July 15, 1993, all mammography equipment*
13 *shall be registered with and certified by the department. If this*
14 *mammography equipment is certified by a private accreditation*
15 *organization, the department shall take into consideration*
16 *evidence of this private certification when deciding to issue a*
17 *mammogram certification.*

18 *(5) All licenses, permits, and certificates issued by the*
19 *department pursuant to this chapter relating to the use of*
20 *mammography equipment shall be publicly posted pursuant to this*
21 *section and regulations adopted by the department.*

22 *(f) To further ensure the quality of mammograms, the*
23 *department shall require all mammogram facilities, other than*
24 *mobile units or vans, to operate quickly and efficiently so as to*
25 *ensure that the facilities are able to develop mammograms of*
26 *diagnostic quality prior to when the patient leaves the facility.*

27 25274.6. (a) Notwithstanding Section 6103 of the
28 Government Code, the department shall adopt regulations
29 establishing a schedule of the fees that shall be paid by all of the
30 following persons:

31 (1) A person possessing radioactive materials under a license
32 issued by the department or under another state or federal license
33 for the use of radioactive materials, if the person uses these
34 radioactive materials in the state in accordance with the
35 regulations adopted pursuant to subdivision (d) of Section
36 25274.5.

37 (2) A person generally licensed for the use of a device or
38 equipment utilizing radioactive materials that is designed and
39 manufactured for the purpose of detecting, measuring, gauging, or
40 controlling thickness, density, level, interface location, radiation,



1 leakage, or qualitative or quantitative chemical composition, or
2 for producing light or an ionized atmosphere, if the device or
3 equipment is manufactured pursuant to a specific license
4 authorizing distribution to general licensees.

5 (b) The revenues derived from the fees imposed pursuant to
6 subdivision (a) shall be used, together with other funds made
7 available therefor, for the purpose of the issuance of licenses or the
8 inspection and regulation of the licensees.

9 (c) The department may adopt emergency regulations pursuant
10 to Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code to establish and
12 adjust the fees for radioactive materials licenses in an amount to
13 produce estimated revenues equal to at least 95 percent of the
14 department's costs in carrying out the licensing requirements
15 specified in subdivision (a), if the new fees remain in effect
16 throughout the fiscal year for which the fee is established or
17 adjusted.

18 (d) A local agency participating in a negotiated agreement
19 pursuant to Section 25274.4 shall be fully reimbursed for direct
20 and indirect costs based upon activities governed by Section
21 25274.9. With respect to these agreements, any salaries, benefits,
22 and other indirect costs shall not exceed comparable costs of the
23 department.

24 (e) The fees for licenses for radioactive materials and of
25 devices and equipment utilizing those materials shall be adjusted
26 annually in the same manner as the fees are adjusted pursuant to
27 Section 100425.1.

28 25274.7. In addition to the annual adjustment of the fees
29 authorized by this chapter pursuant to subdivision (e) of Section
30 25274.6, the director may adopt emergency regulations in
31 accordance with Chapter 3.5 (commencing with Section 11340) of
32 Part 1 of Division 3 of Title 2 of the Government Code, to establish
33 and adjust these fees, and for purposes of that chapter, including
34 Section 11349.6 of the Government Code, an adoption of these
35 regulations is an emergency and shall be considered by the Office
36 of Administrative Law as necessary for the immediate
37 preservation of the public peace, health and safety, and general
38 welfare.

39 25274.8. The department shall adopt regulations that
40 establish the frequency of inspections of persons holding a license

1 pursuant to this chapter, in a frequency not less than the priority for
2 inspection established by the United States Nuclear Regulatory
3 Commission.

4 25274.9. (a) Notwithstanding Section 6103 of the
5 Government Code, the department shall adopt regulations that
6 rank the order of priority for inspection, as determined by the
7 degree of potentially damaging exposure of persons by ionizing
8 radiation and the requirements of subdivision (d), and a schedule
9 of fees, based upon that priority ranking, that shall be paid by
10 persons possessing sources of ionizing radiation that are subject to
11 registration in accordance with subdivision (b) of Section
12 25274.5, and the regulations adopted pursuant to those provisions.
13 The department may expend the revenues derived from the fees,
14 together with other funds made available therefor, for the purpose
15 of carrying out any inspections of the sources of ionizing radiation
16 required by this chapter or regulations adopted pursuant to this
17 chapter. The department shall set the fees, together with any other
18 funds made available to the department, in the amount sufficient
19 to cover the costs of administering this chapter, and shall set the fee
20 in amounts intended to cover the costs of administering this
21 chapter for each priority source of ionizing radiation. The
22 revenues generated by the fees shall not offset any general funds
23 appropriated for the support of the radiologic programs authorized
24 pursuant to this chapter. Any person who pays fees shall not be
25 required to pay, directly or indirectly, for the share of the costs of
26 administering this chapter for those persons for whom fees are
27 waived.

28 (b) A local agency participating in a negotiated agreement
29 pursuant to Section 25274.4 shall be fully reimbursed for direct
30 and indirect costs based upon activities governed by subdivision
31 (d). With respect to these agreements, any salaries, benefits, and
32 other indirect costs shall not exceed comparable costs of the
33 department. Any changes in the frequency of inspections or the
34 level of reimbursement to local agencies made by this section
35 during the 2003–04 Regular Session of the Legislature shall not
36 affect any ongoing contracts.

37 (c) The fees paid by persons possessing sources of ionizing
38 radiation shall be adjusted annually in the same manner as other
39 fees are adjusted pursuant to Section 100425.



(d) The average inspection frequency for ionizing radiation machines shall be once *each year for mammography X-ray units, once every three years for high-priority sources of ionizing radiation, and once every four and one-half years for medium priority sources.* The department may adopt regulations that increase the frequency of inspection for ionizing radiation machines. *Sources of ionizing radiation used in dentistry shall be screened for defects by mail or other offsite methodology not less frequently than once every five years, with physical inspection of the 50 percent, determined by the department to be most in need of inspection, to average at least once every six years.*

(e) (1) *The person responsible for registering mammographic X-ray equipment shall be responsible for assuring that the mammographic X-ray equipment under his or her jurisdiction has been inspected and that mammography quality assurance tests are performed by a medical physicist, health physicist, or other individual with qualifications similar to those approved by the State Department of Health Services and prescribed in the May 1990 version of the "Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment," as approved by the Radiologic Technology Certification Committee.*

(2) *If the department adopts regulations on or after January 1, 1993, that provide similar or stronger protection of a patient's health and safety than the "Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment," as determined by the department, then those rules shall no longer apply to this subdivision.*

25274.10. (a) Any officer, employee, or agent of the department or of any state or local agency with which an agreement has been made pursuant to Section 25274.4 may enter at all reasonable times upon any private or public property within the jurisdiction of the agency for the purpose of determining whether or not there is compliance with or violation of this chapter, building standards published in the State Building Standards Code relating to buildings in which there are sources of ionizing radiation, or of the regulations adopted pursuant to this chapter, and the owner, occupant, or person in charge of the property shall permit that entry and inspection.

(b) An officer, employee, or agent specified in subdivision (a) may enter into areas under the jurisdiction of the federal

1 government only with the concurrence of the federal government
2 or its duly designated representative.

3 25274.11. (a) The department, on behalf of this state, may
4 enter into an agreement or agreements with the federal
5 government, other states, or interstate agencies, whereby this state
6 will perform on a cooperative basis with the federal government,
7 other states, or interstate agencies, inspections or other functions
8 relating to control of sources of ionizing radiation.

9 (b) The department and any other appropriate state agency may
10 institute training programs for the purpose of qualifying personnel
11 to carry out this chapter, and may make those personnel available
12 for participation in any program or programs of the federal
13 government, other states, or interstate agencies in furtherance of
14 the purposes of this chapter.

15 (c) Any ordinances, resolutions or regulations, now or
16 hereafter in effect, of the governing body of a city or county
17 relating to radioactive materials or other sources of radiation shall
18 not be superseded by this chapter, if the ordinances or regulations
19 are and continue to be consistent with this chapter, amendments
20 thereto, and the regulations adopted pursuant to this chapter.

21 (d) A city or county may not require the payment of a fee in
22 connection with the activities governed by Section 25274.6 when
23 a fee is required by the regulations adopted pursuant to that section,
24 and a city or county may not require the payment of a fee in
25 connection with the activities governed by Section 25274.9 when
26 a fee is required by the regulations adopted pursuant to that section.

27 25274.12. In determining whether to grant, deny, amend,
28 revoke, suspend, or restrict a certification, registration, or license,
29 the department may consider those aspects of a person's
30 background that, in its judgment, bear materially on that person's
31 ability to fulfill her or his obligations, including, but not limited
32 to, technical competency and her or his current or prior record in
33 areas involving ionizing radiation.

34 25274.13. The department shall require a licensee or an
35 applicant for a license pursuant to Section 25274.5 to receive,
36 possess, or transfer radioactive materials, or devices or equipment
37 utilizing radioactive materials, to provide a financial surety to
38 ensure performance of its obligations under this chapter. The
39 department shall establish, by regulation, the amount and type of
40 financial surety that is required to be provided to provide for



1 maximum protection of the public health and safety and the
2 environment. The financial surety shall be in the form of surety
3 bonds, deposits of government securities, escrow accounts, lines
4 of credit, trust funds, credit insurance, or any other equivalent
5 financial surety arrangement acceptable to the department. The
6 department shall adopt the regulations in accordance with, but not
7 limited to, all of the following criteria:

8 (a) Consideration of the need for, and scope of, any
9 decontamination, decommissioning, reclamation, or disposal
10 activities required to protect the public health and safety and the
11 environment.

12 (b) Estimates of the costs of the required decontamination,
13 decommissioning, reclamation, or disposal.

14 (c) The costs of long-term maintenance and surveillance, if
15 required.

16 (d) Consideration of the appropriateness of specific
17 requirements imposed in the financial assurance regulations
18 adopted by the Nuclear Regulatory Commission, including, but
19 not limited to, the minimum levels of financial assurance required
20 to be provided by different categories of facilities, and the
21 categories of facilities that are exempted from the requirement to
22 provide a financial surety.

23 25274.14. (a) The department shall deposit all money
24 received from a financial surety provided pursuant to Section
25 27274.13 in the Financial Surety Account, which is hereby created
26 in the Radioactive Materials Control Fund.

27 (b) Notwithstanding Section 13340 of the Government Code,
28 the money in the Financial Surety Account is hereby continuously
29 appropriated to the department for expenditure only for the
30 decontamination, decommissioning, reclamation, and disposal of
31 radioactive materials, and for long-term maintenance and
32 surveillance for the protection of the public health and safety and
33 the environment, in accordance with subdivision (e), with regard
34 to the facility or operations of the licensee who provided the
35 financial surety.

36 (c) The department may not expend the money in the Financial
37 Surety Account for normal operating expenses of the department.

38 (d) The department shall, by regulation, establish a procedure
39 whereby a licensee may be refunded the amount of the financial
40 surety provided by the licensee in excess of any amounts expended

1 by the department and any amounts that are required to be retained
2 to cover the costs of long-term maintenance and surveillance
3 pursuant to subdivision (b), with regard to that licensee's facility
4 or operations. The regulations shall specify that the refund may be
5 received only after the department has determined that the licensee
6 has fully satisfied all of its obligations under its license, and all
7 other obligations which the regulations require to be satisfied
8 before the licensee may receive a refund.

9 (e) If the department finds that a radioactive materials licensee
10 is unable to, or is unwilling to, conduct any decontamination,
11 decommissioning, reclamation, disposal, or long-term
12 maintenance and surveillance that may be necessary, the
13 department shall issue an order directing any action and corrective
14 measures it finds necessary to protect the public health and safety
15 and the environment. The department may undertake, or contract
16 for the undertaking of, any actions or corrective measures which
17 the licensee fails to satisfactorily complete, and may expend the
18 amount of the financial surety provided by the licensee to pay the
19 costs of those actions and corrective measures.

20 25274.15. (a) The department shall require, as a condition of
21 issuing a license to receive, possess, or transfer radioactive
22 materials, or devices or equipment utilizing radioactive materials,
23 that the licensee take corrective action with regard to all
24 contamination that results from the handling, use, storage, or
25 transportation of radioactive materials at the licensee's facility
26 regardless of when the contamination commenced at the facility.

27 (b) Any corrective action required pursuant to this section shall
28 require that corrective action be taken beyond the facility
29 boundary if necessary to protect human health and safety or the
30 environment, unless the licensee demonstrates to the satisfaction
31 of the department that, despite the licensee's best efforts, the
32 licensee is unable to obtain the necessary permission to undertake
33 the corrective action.

34 (c) When corrective action cannot be completed prior to
35 issuance of the license, the license shall contain schedules of
36 compliance for corrective action and assurances of financial
37 responsibility for completing the corrective action.

38 25274.16. (a) The department shall require a person applying
39 for a license under this article to submit a disclosure statement to

1 the department containing all of the following information, signed
2 by the applicant under penalty of perjury:

3 (1) The full name, all previous names, the business address,
4 social security number, and driver's license number of all of the
5 following persons:

6 (A) The applicant.

7 (B) All officers, directors, and partners, if the applicant is a
8 business concern.

9 (C) All persons, officers, partners, or directors if there are no
10 officers, of business concerns holding more than 5 percent of the
11 equity in, or debt liability of the applicant, except that if the debt
12 liability is held by a lending institution, the applicant shall only
13 supply the name and address of the lending institution.

14 (2) Except as provided in subdivision (b), the following
15 persons listed on the disclosure statement shall properly submit
16 fingerprint images and related identification information:

17 (A) The sole proprietor.

18 (B) The partners.

19 (C) Persons listed in subparagraph (C) of paragraph (1) and the
20 officers and directors of the applicant company as required by the
21 department.

22 (3) If fingerprint images and related identification information
23 are submitted for purposes of paragraph (2), the fingerprint images
24 and related identification information shall be submitted for a
25 person pursuant to paragraph (2) only once. If there is a change in
26 the person serving in a position for which fingerprint images and
27 related identification information are required to be submitted
28 pursuant to paragraph (2), fingerprint images and related
29 identification information shall be captured and submitted for that
30 person. Fingerprint images and the related identification
31 information may be obtained using the Department of Justice's
32 electronic fingerprint network.

33 (4) The full name and business address of all business concerns
34 that generate, transport, treat, store, recycle, dispose of, or handle
35 radioactive materials in which the applicant holds at least a 5
36 percent debt liability or equity interest.

37 (5) A description of all local, state, or federal licenses, permits,
38 or registrations for the generation, transportation, treatment,
39 storage, recycling, disposal, or handling of radioactive materials
40 applied for, or possessed by the applicant, or by the applicant under

1 any previous name or names, in the five years preceding the filing
2 of the statement, or, if the applicant is a business concern, by the
3 officers, directors, or partners of the business concern, including
4 the name and address of the issuing agency.

5 (6) A listing and explanation of all final orders or license
6 revocations or suspensions issued or initiated by any local, state,
7 or federal authority, in the five years immediately preceding the
8 filing of the statement, or a civil or criminal prosecution filed in
9 the five years immediately preceding, or pending at the time of, the
10 filing of the statement, with the remedial actions or resolutions if
11 applicable, relating to the generation, transportation, treatment,
12 storage, recycling, disposal, or handling of radioactive materials
13 by the applicant, or by the applicant under any previous name or
14 names, or, if the applicant is a business concern, by any officer,
15 director, or partner of the business concern.

16 (7) A listing of all agencies outside of the state that regulate, or
17 have regulated, the applicant's, or the applicant's under any
18 previous name or names, generation, transportation, treatment,
19 storage, recycling, disposal, or handling of radioactive materials
20 in the five years preceding the filing of the disclosure statement.

21 (8) A listing and explanation of all federal or state convictions,
22 judgments, or settlements, in the five years immediately preceding
23 the filing of the statement, with any remedial actions or resolutions
24 if applicable, relating to the generation, transportation, treatment,
25 storage, recycling, disposal, or handling of radioactive materials
26 by the applicant, or by the applicant under any previous name or
27 names, or if the applicant is a business concern, by any officer,
28 director, or partner of the business concern.

29 (9) A listing of all owners, officers, directors, trustees, and
30 partners of the applicant who have owned, or been an officer,
31 director, trustee, or partner of, any company that generated,
32 transported, treated, stored, recycled, disposed of, or handled
33 radioactive materials and which was the subject of any of the
34 actions described in paragraphs (6) and (8) for the five years
35 preceding the filing of the statement.

36 (b) Notwithstanding paragraph (2) of subdivision (a), a
37 corporation, the stock of which is listed on a national securities
38 exchange and registered under the Securities Exchange Act of
39 1934 (15 U.S.C. Sec. 78a et seq.), or a subsidiary of such a

1 corporation, is not subject to the fingerprint requirements of
2 subdivision (a).

3 (c) (1) Before issuing a license pursuant to this chapter, the
4 department shall submit the fingerprint cards or electronic
5 fingerprint images and related identification information
6 submitted pursuant to paragraph (2) of subdivision (a) to the
7 Department of Justice for the purpose of obtaining information as
8 to the existence and nature of a record of state and federal level
9 convictions and state and federal level arrests for which the
10 Department of Justice establishes that the applicant is incarcerated
11 or was released on bail or on his or her own recognizance pending
12 trial. The Department of Justice shall forward a request for federal
13 level criminal offender record information, received by the
14 Department of Justice, pursuant to this subdivision, to the Federal
15 Bureau of Investigation.

16 (2) For each applicant or licensee whose fingerprint images and
17 related identification information are submitted to the Department
18 of Justice pursuant to this subdivision, the Department of Justice
19 shall provide the following information to the department
20 pursuant to this section:

21 (A) Every conviction rendered against that applicant or
22 licensee.

23 (B) Every arrest for an offense for which that applicant or
24 licensee is presently awaiting trial, whether the applicant or
25 licensee is incarcerated or has been released on bail or on his or her
26 own recognizance pending trial.

27 (3) The department, pursuant to this subdivision, shall request
28 subsequent arrest notification service from the Department of
29 Justice as provided under Section 11105.2 of the Penal Code.

30 (4) The department shall reimburse the Department of Justice
31 for the actual costs incurred by the Department of Justice for
32 searching and furnishing state and federal level criminal offender
33 record information pursuant to this subdivision.

34 (d) For purposes of this section, “business concern” means a
35 sole proprietorship, corporation, association, firm, partnership,
36 trust, or other form of commercial organization.
37

Article 5. Low-Level Radioactive Waste

25275. (a) For the purposes of this section, the following terms have the following meanings:

(1) “Generate” means to produce or cause the production of, or to engage in an activity which otherwise results in the creation or increase in the volume of, low-level radioactive waste.

(2) (A) “Generator” means any person who, by his or her actions, or by the actions of his or her agent, employee, or independent contractor, generates low-level radioactive waste in the state.

(B) For purposes of this section, a person who provides for or arranges for the collection, transportation, treatment, storage, or disposal of low-level radioactive waste generated by others is a generator only to the extent that his or her actions, or the actions of his or her agent, employee, or independent contractor, generate low-level radioactive waste.

(3) “Person” means an individual, partnership, corporation, or other legal entity, including any state, interstate, federal, or municipal governmental entity.

(4) “Waste” means material that is not in use and is no longer useful.

(5) “Generator category” includes, but is not limited to, any of the following:

(A) Nuclear powerplants.

(B) Reactor vendors or designers.

(C) Government.

(D) Medicine.

(E) Academia.

(F) Aerospace.

(G) Military.

(H) Research.

(I) Industrial gauges.

(J) Manufacturing.

(6) “Low-level radioactive waste” or “LLRW” has the same meaning as defined in Article 2 of the Southwestern Low-Level Radioactive Waste Disposal Compact, as set forth in Section 25276.1.

(7) “Class” means the class of low-level radioactive waste. “Class A,” “class B,” and “class C” waste are those classes

1 defined in Section 61.55 of Title 10 of the Code of Federal
2 Regulations.

3 (8) “Licensed LLRW disposal facility” means any of the three
4 disposal facilities located at Barnwell, South Carolina; Clive,
5 Utah; or Richland, Washington, that exist on January 1, 2003.

6 (b) The department shall, for the protection of public health and
7 safety maintain a file of each manifest from each generator of
8 LLRW that is sent to a disposal facility or to a facility subject to
9 the Southwestern Low-level Radioactive Waste Disposal
10 Compact, as set forth in Article 6 (commencing with Section
11 25276).

12 (c) The department shall, for the protection of public health and
13 safety, maintain a file of all LLRW transferred for disposal to a
14 licensed LLRW disposal facility during the reporting period,
15 either directly or through a broker or agent, which shall meet all
16 of the following conditions:

17 (1) Specify the category of generator, class, quantity by
18 activity, and volume of LLRW, including an estimate of the peak
19 and average quantities in storage, along with the identity of the
20 generator, and the chemical and physical characteristics of that
21 waste, including its half-life, properties, or constituents, and
22 radionuclides present at, or above, the minimum labeling
23 requirements, with their respective concentrations and amounts of
24 radioactivity.

25 (2) Be updated annually, at minimum, to ensure an accurate and
26 timely depiction of radioactive waste in the state.

27 (3) Include all of the following information in the file:

28 (A) The total volume, volume by class, and activity by
29 radionuclide and class.

30 (B) The types and specifications of individual containers used
31 and the number of each type transferred for disposal.

32 (C) The maximum surface radiation exposure level on any
33 single container of LLRW transferred, the number of disposal
34 containers that exceed 200 mR/hour, and the volume, class, and
35 activity by radionuclide.

36 (D) The identification of each licensed LLRW disposal facility
37 to which LLRW was transferred, either directly or through a
38 broker or agent, and the volume and activity by class of LLRW
39 transferred by each broker to each licensed LLRW disposal
40 facility.

1 (E) The identification of all brokers or agents to which LLRW
2 was transferred and the volume and activity by class of the
3 generator's LLRW transferred by each such broker or agent to
4 each licensed LLRW disposal facility.

5 (F) The weight of source material by its type. For purposes of
6 this paragraph, "type" includes, but is not limited to, natural
7 uranium, depleted uranium, or thorium.

8 (G) The total number of grams of special nuclear material by
9 radionuclide, and the maximum number of grams of special
10 nuclear material in any single shipment by radionuclide.

11 (H) As complete a description as practicable of the principal
12 chemical and physical form of the LLRW by volume and
13 radionuclide, including the identification of any known hazardous
14 properties, other than its radioactive property.

15 (I) For solidified or sorbed liquids, the nature of the liquid, the
16 solidifying or sorbing agent used, and the final volume.

17 (J) For LLRW containing more than 0.1 percent by weight
18 chelating agents, the identification of the chelating agent, the
19 volume and weight of the LLRW and the weight percentage of
20 chelating agent.

21 (K) For LLRW that was treated, either by the generator or its
22 agent or independent contractor, in preparation for transfer to a
23 licensed LLRW disposal facility described in paragraph (8) of
24 subdivision (a) for the purpose of reducing its volume or activity
25 by any method including reduction by storage for decay, or for the
26 purpose of changing its physical or chemical characteristics in a
27 manner other than by solidification or sorption of liquids, the file
28 shall include a description of the treatment process.

29 (1) The volume, volume by class, and activity by radionuclide
30 and class of that LLRW, if any, that the generator is holding at the
31 end of the annual reporting period because the generator knows or
32 has reason to believe that LLRW will not be accepted for disposal
33 at any of the licensed LLRW disposal facilities. The file shall
34 include a description of this LLRW.

35 (d) The department shall maintain a file on each generator's
36 LLRW stored, including specific radionuclides, total volume,
37 volume by class, total activity, and activity by radionuclide and
38 class of LLRW stored for decay and stored for later transfer,
39 including the periods of time for both types of storage.



1 (e) (1) The department shall prepare an annual report,
2 including a set of tables summarizing data collected from the
3 activities and maintenance of files specified in subdivisions (c) and
4 (d) to the department. These annual data tables shall contain
5 information that summarizes and categorizes, by category, and if
6 applicable, subcategory, of generator and location by county and
7 identity of generator, the nature, characteristics and the total
8 volume, volume by class, total activity and activity by
9 radionuclide and class of LLRW generated, disposed of, treated,
10 transferred, stored for later transfer, and stored for decay during
11 each calendar year.

12 (2) The department shall note, in the set of tables prepared
13 pursuant to paragraph (1), any generator for which data are
14 lacking.

15 (f) The department shall make the information described in
16 subdivisions (c) and (d) available to the public in a format that
17 aggregates the information by county. The department shall not
18 make public the identity and location of any site where LLRW is
19 stored or used. The department may combine information from
20 multiple counties if necessary to protect public security.
21 Notwithstanding any other provision of law, the department shall
22 not make the report prepared pursuant to subdivision (e) available
23 to the public, and the report is not subject to the California Public
24 Records Act (Chapter 3.5 (commencing with Section 6250) of
25 Division 6 of Title 1 of the Government Code).

26 (g) The department may make the information described in
27 subdivisions (c) and (d) available upon request to any Member of
28 the Legislature. No Member of the Legislature may disclose the
29 identity or location of any site where LLRW is stored or used to
30 any member of the general public.

31 (h) To meet the requirements of this section, each generator
32 shall submit to the department the information included in Forms
33 540, 541, and 542, and any successor forms, of the Nuclear
34 Regulatory Commission, for each LLRW shipment. In addition,
35 for purposes of subparagraph (L) of paragraph (4) of subdivision
36 (c) and subdivision (d), each generator shall annually complete
37 and submit to the department the information included on Forms
38 540, 541, and 542, and any successor forms, of the Nuclear
39 Regulatory Commission that describe the LLRW stored and
40 shipped by the generator.

1 25275.1. In addition to the requirements imposed by Section
2 25274.1, the department shall develop an overall plan, in
3 consultation with other state, regional, and federal agencies, for
4 the management, treatment, and disposal of low-level radioactive
5 waste generated within California. The plan shall contain, at a
6 minimum, all of the following elements:

7 (a) Specific contingency plans to address the needs of the state
8 for the short-term storage of low-level radioactive waste in the
9 event of a precipitous closure of existing out-of-state commercial
10 waste disposal facilities and to evaluate feasible alternatives for
11 meeting the state's needs. This element of the plan shall include,
12 but is not limited to, all of the following factors:

13 (1) The amount and kinds of low-level radioactive waste
14 generated by California licensees and current disposal locations.

15 (2) The size and nature of an interim storage facility required
16 to meet California's interim low-level radioactive waste disposal
17 needs.

18 (3) The cost of developing and operating an interim storage site
19 by the department or contracting organizations.

20 (4) Criteria for the siting of an interim storage site, including,
21 but not limited to, all of the following:

22 (A) Proximity to population.

23 (B) Geologic stability.

24 (C) Proximity to ground or surface water.

25 (D) Availability of transportation.

26 (E) General public health and economic considerations. This
27 element of the plan shall be completed and submitted to the
28 appropriate committees of each house of the Legislature on or
29 before December 31, 1982.

30 (b) A classification scheme for the separation of low-level
31 radioactive waste that will facilitate the management, treatment,
32 storage, and ultimate disposal of the waste. This classification
33 scheme shall consider the matters as possible de minimus radiation
34 levels for specific radionuclides, the quantity and specific activity
35 of the material, its persistence, toxicity, chemical form, reactivity,
36 and the principal radionuclides present. The classification scheme
37 shall also include the specifications necessary to determine which
38 classes of waste may or may not be accepted for storage in an
39 interim storage facility established pursuant to Section 25275.10,
40 that may or may not be held by the licensee for decay to specified

1 residual radioactivity levels and that require long-term isolation
2 from the environment, as the case may be, for the protection of the
3 public health and safety. The department may require as a
4 condition of licensure the submission of information necessary to
5 determine the total amount of waste produced in each class of the
6 classification scheme. The department may, by regulation, adopt
7 the classification scheme establishing which wastes may or may
8 not be accepted at an interim storage facility or at a treatment or
9 disposal facility. This element of the plan shall be completed and
10 submitted to the appropriate committees of each house of the
11 Legislature on or before December 31, 1982.

12 (c) Siting criteria for potential land burial disposal sites and
13 treatment facilities within the state. In establishing these criteria,
14 the department shall consider the following factors, including, but
15 not limited to:

16 (1) The present and projected future uses of land, water, and
17 natural resources.

18 (2) The proximity of the site to major population centers.

19 (3) The presence of active earthquake faults.

20 (4) Geologic and other natural barriers which protect against
21 surface or groundwater contamination.

22 (5) The effectiveness of engineered barriers, waste treatment,
23 and waste packaging in ensuring isolation of the waste from the
24 environment.

25 (6) Transportation of radioactive materials as it relates to
26 public health and safety.

27 (7) The relative economic impact of location and operation of
28 treatment or disposal facilities. This element of the plan shall be
29 completed and submitted to the appropriate committees of each
30 house of the Legislature on or before December 31, 1982.

31 (d) A plan of action to minimize the environmental,
32 occupational, and public health impact of low-level radioactive
33 waste and to protect the public health and safety by encouraging
34 a reduction in the amount and toxicity of waste produced. This
35 activity shall include conducting or having studies conducted that
36 evaluate the technical and economic feasibility of (1) reducing the
37 volume, reactivity, and chemical and radioactive hazard of the
38 waste, (2) cleaning contaminated, nonactivated metals and other
39 materials to permit their recycle and reuse, and (3) substituting
40 nonradioactive or short-lived radioactive materials for those

1 radionuclides that require long-term isolation from the
2 environment. The results of these studies, along with the
3 departmental recommendations for their implementation, shall be
4 reported by the department to the appropriate committees of the
5 Legislature on or before December 31, 1983.

6 (e) Within six months after September 28, 1983, the Governor
7 shall direct the appropriate state agency or agencies, as determined
8 by the Governor, to conduct and complete a study that identifies
9 those regions of the state within which it is likely the criteria
10 developed pursuant to subdivision (c) could be met. The state
11 agency or agencies, so directed, may also request, when
12 appropriate, the assistance of state or federal agencies or private
13 organizations.

14 25275.2. (a) The department shall not grant any license to
15 receive radioactive material from other persons for disposal on
16 land unless all of the following requirements are satisfied:

17 (1) The land on which the radioactive wastes are to be buried
18 is owned by the federal or state government.

19 (2) The department determines that the site is consistent with
20 the public health and safety.

21 (3) The applicant for the license will comply with the
22 emergency regulations adopted by the department pursuant to
23 subdivision (b).

24 (b) On or before March 28, 1984, the department shall adopt
25 emergency regulations for the licensing of those persons engaged
26 in the disposal of low-level radioactive waste and for
27 implementing this section and Sections 25275.4, 25275.5, and
28 25275.6.

29 The emergency regulations shall be consistent with the federal
30 regulations found in Sections 301 through 311, inclusive, of Part
31 20 of Title 10 and in Part 61 of Title 10 of the Code of Federal
32 Regulations (Federal Register, Vol. 47, No. 28, page 57446,
33 December 27, 1982) and shall be adopted solely for the purposes
34 of clarifying and rendering specific, for application in California,
35 these federal regulations and implementing this section and
36 Sections 25275.4, 25275.5, and 25275.6.

37 (c) The emergency regulations specified in subdivision (b)
38 shall be adopted by the department in accordance with Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3 of Title
40 2 of the Government Code, and for the purposes of that chapter,

1 including Section 11349.6 of the Government Code, the adoption
2 of these regulations is an emergency and shall be considered by the
3 Office of Administrative Law as necessary for the immediate
4 preservation of the public peace, health and safety, and general
5 welfare. Notwithstanding Chapter 3.5 (commencing with Section
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
7 any emergency regulations adopted by the department pursuant to
8 this subdivision shall not be repealed by the Office of
9 Administrative Law and shall remain in effect until revised or
10 repealed by the department.

11 (d) The department may, by emergency regulation adopted in
12 accordance with subdivision (c), establish and collect a fee for the
13 issuance or renewal of a license specified in subdivision (a).

14 25275.3. The department shall, by regulation, establish and
15 collect a fee for the issuance or renewal of a license to dispose of
16 low-level radioactive waste pursuant to this article. The fees
17 collected shall be sufficient to cover the state's cost in reviewing
18 the application, issuing or renewing the license, and inspecting and
19 conducting oversight of the licensee.

20 25275.4. The department may limit the number of licenses
21 issued pursuant to Sections 25274.4, 25275.2, and 25275.5
22 authorizing the receipt of radioactive material from other persons
23 for disposal on land.

24 25275.5. (a) All applicants filing a statement of capabilities
25 and notice of intention to file an application for a license to receive
26 radioactive materials from other persons for disposal on land shall
27 file the statement and notice within three months after the
28 department adopts the emergency regulations specified in
29 subdivision (b) of Section 25275.2. Within 45 days after the
30 termination of that three-month filing period, the department shall
31 evaluate the statements of capabilities and notices of intent. The
32 director shall determine, within that 45-day period, whether the
33 department has received one or more statements and notices that
34 are likely to result in the filing of an application for a license
35 satisfying the requirements of Section 25275.2.

36 (b) If the director determines, within the 45-day period
37 specified in subdivision (a), that the department has received one
38 or more statements of capabilities and notices of intent which are
39 likely to result in the filing of an application for a license, the
40 department shall, within the 45-day period, select one of the

1 applicants who filed the statement of capabilities and notice of
2 intent to file a license application as a license designee.

3 (c) The department shall adopt emergency regulations
4 establishing procedures for the review and evaluation of the
5 statements of capabilities and notices of intent, as specified in
6 subdivision (a), and for the selection of a license designee, as
7 specified in subdivision (b). These emergency regulations shall be
8 adopted by the department in accordance with subdivision (c) of
9 Section 25275.2 and shall include procedures for soliciting,
10 evaluating, ranking, and designating license designees and for
11 selecting alternative license designees based upon the ranking.

12 (d) The department may solicit additional statements of
13 capabilities and notices of intent if a license designee withdraws
14 or becomes ineligible for licensing, or if a license is issued and is
15 then suspended, revoked, or terminated.

16 (e) The department may, by emergency regulations adopted in
17 accordance with subdivision (c) of Section 25275.2, establish and
18 collect a fee for filing a statement of capabilities and notice of
19 intent.

20 (f) The department may require that a person selected as a
21 license designee pursuant to this section post a bond of up to one
22 million dollars (\$1,000,000) to guarantee that the person will carry
23 out the activities connected with completing the license
24 application and obtaining the license. The department shall, by
25 emergency regulation adopted in accordance with subdivision (c)
26 of Section 25275.2 establish standards for the forfeiture of the
27 bond.

28 25275.6. (a) If, within 45 days after the termination of the
29 three-month filing period specified in subdivision (a) of Section
30 25275.5, the director determines that the department has not
31 received a statement of capabilities and a notice of intent to file an
32 application for a license to receive radioactive materials from
33 other persons for disposal on land that is likely to result in the filing
34 of an application that satisfies the requirements of Section
35 25275.2, the director shall notify the secretary.

36 (b) Within one year after receiving the notification specified in
37 subdivision (a), the secretary shall file with the department an
38 application for a license to receive radioactive materials from
39 other persons for disposal on land at a site within a region



1 identified pursuant to subdivision (e) of Section 25275.1, and that
2 is owned, operated, or both, by the state.

3 (c) (1) Upon the request of the Environmental Protection
4 Agency, the Director of Finance may provide a loan from the
5 General Fund to the Environmental Protection Agency for the
6 purposes of implementing this section. The Environmental
7 Protection Agency shall repay any loans made pursuant to this
8 section pursuant to the terms and conditions prescribed by the
9 Department of Finance, including interest at the rate set by the
10 Pooled Money Investment Board pursuant to Section 16314 of the
11 Government Code.

12 (2) The Director of Finance shall not provide more than two
13 million dollars (\$2,000,000) pursuant to this subdivision during
14 the 1983-84 fiscal year. The amount for loans in the 1984-85 fiscal
15 year, and subsequent fiscal years, shall be specified annually in the
16 Budget Act and the total of all loans made pursuant to this
17 subdivision shall not exceed fifteen million dollars (\$15,000,000).

18 (d) If a radioactive materials disposal site that is owned,
19 operated, or both, by the state is established pursuant to this
20 section, the secretary shall establish a schedule of fees to be
21 charged each person who disposes of radioactive materials at the
22 site. The schedule of fees shall be set at an amount sufficient to
23 reimburse the state for any costs incurred in developing,
24 constructing, and operating the site.

25 25275.7. The department may require that all schedules of
26 fees charged for the disposal of radioactive material by a person
27 owning or operating a site licensed pursuant to Section 25275.2 are
28 to be submitted to the department prior to their implementation.
29 The department may determine, following a public hearing and
30 based upon written findings, if the fees to be charged are
31 reasonable and may require the owner or operator to modify the
32 fee schedule if so determined by the department.

33 25275.8. (a) The license designee shall file periodic financial
34 reports with the department as directed by the department. These
35 reports shall provide detailed information on past and projected
36 expenditures for development and operation of the low-level
37 radioactive waste disposal site according to programmatic
38 function, including, but not limited to, all of the following:

- 39 (1) Program management.
40 (2) Candidate sites selection.

1 (3) Site characterization.

2 (4) Environmental.

3 (5) Public and agency involvement.

4 (6) Licensing and permitting.

5 (7) Site development.

6 (8) Land acquisition.

7 (9) Financing.

8 (10) Operations.

9 (b) The license designee shall file reports with the department,
10 as directed by the department, that identify, quantify, and explain
11 major causes of actual and projected cost overruns and cost
12 underruns with regard to the cost projections provided in the
13 statement of capabilities and notice of intent.

14 (c) The Legislature finds and declares that the purpose of this
15 section is to identify minimum financial reporting requirements
16 for the costs of developing and operating the state's low-level
17 radioactive waste disposal facility. This section does not limit the
18 authority of the department to require the license designee to
19 furnish any additional information that the department determines
20 to be necessary to fulfill its duties under this chapter, including
21 Section 25275.7.

22 25275.9. (a) The department may, pursuant to subdivision
23 (d), establish and operate, or contract for the establishment and
24 contract for operation, of one or more low-level radioactive waste
25 interim storage facilities for the exclusive use of persons located
26 in California who are licensed by the department or the United
27 States Nuclear Regulatory Commission.

28 (b) In addition to the fees authorized to be levied pursuant to
29 Section 25274.6, the department may set and collect fees by
30 regulation, to be paid by generators in California of low-level
31 radioactive waste in an amount sufficient to support the
32 development and operation of the facilities including the
33 surveillance and repair of damaged packages, maintenance of the
34 facilities, decontamination, decommissioning, and postclosure
35 maintenance of these facilities, recordkeeping systems, and other
36 activities as the department finds necessary to ensure the safe
37 operation of such a facility. The department shall not set any fee
38 in an amount that exceeds the amount reasonably necessary to
39 implement this section. The department may also require the
40 operators or the users of the facilities to post bonds or possess

1 adequate insurance as may be reasonably necessary to protect the
2 state against such liabilities as storage and ultimate disposal costs
3 for abandoned waste and against claims arising out of accidents or
4 failures of the storage facility.

5 (c) A user of any facility operated pursuant to this section shall
6 meet state and federal orders, requirements, or regulations for
7 handling and management of low-level radioactive waste
8 including those prescribed pursuant to subdivision (b) of Section
9 25275.1.

10 (d) No low-level radioactive waste interim storage facility may
11 be established pursuant to subdivision (a) until all of the following
12 occurs:

13 (1) The department has fulfilled the requirements of
14 subdivisions (a) and (b) of Section 25275.8, and has submitted its
15 findings to the Legislature.

16 (2) The establishment of the interim storage facility is
17 consistent with the elements of the low-level radioactive waste
18 disposal plan specified in subdivisions (a) and (b) of Section
19 25275.1.

20 (3) The department files a notice with the Legislature, while in
21 session, 60 days before establishing the facility.

22 (e) In addition to any other grounds authorizing the
23 department, or any person with whom it contracts, to cease the
24 operation of a low-level radioactive waste interim storage facility,
25 the facility shall cease accepting low-level radioactive waste for
26 interim storage (1) no later than five years after the date it
27 commences operating or (2) if the director determines that an
28 alternate disposal site is available to California licensees in the
29 western region of the United States, whichever event occurs first.

30 (f) Within seven years of commencing operation of any interim
31 storage facility all wastes stored at the facility shall be transferred
32 to a permanent land burial disposal site or permanently disposed
33 of by some other treatment or means of disposal and the facility
34 shall be closed and thereafter, to the extent necessary, as
35 determined by the department, decontaminated and
36 decommissioned.

37 (g) The authority granted by this section shall remain operative
38 for a period of eight years from the date of the establishment of a
39 low-level radioactive waste interim storage facility pursuant to
40 this section. The director shall report the date the facility is

1 established to the appropriate committees of each house of the
2 Legislature and the Legislative Counsel Bureau.

3 25275.10. The Governor shall negotiate and enter into
4 interstate agreements, interstate compacts, or agreements with
5 compacts, for the purpose of establishing access to, or maintaining
6 access to, land disposal facilities for low-level radioactive waste
7 generated in California. The terms of the agreement or compact
8 may include, but are not limited to, a provision that the other
9 parties to the agreement or compact will have reciprocal access to
10 California permanent disposal facilities, when operational.

11 The Governor shall report to the Legislature on the status of
12 these negotiations within four months after September 28, 1983,
13 and every four months thereafter, until an agreement or compact
14 is entered into or the negotiations are terminated. Any agreement
15 or compact that proposes membership for California in a compact
16 made pursuant to the Low-Level Radioactive Waste Policy Act (42
17 U.S.C. Secs. 2021b to 2021d, incl.) or any interstate agreement or
18 agreement with a compact that includes a provision that the other
19 parties to the agreement will have reciprocal access to California
20 permanent disposal facilities, when operational, shall be submitted
21 to the Legislature for ratification by statute.

22 25275.11. The director shall appoint, in consultation with the
23 Chairperson of the Senate Committee on Rules and the Speaker of
24 the Assembly, an advisory committee to advise the department
25 regarding methods for minimizing the environmental impact of
26 low-level radioactive waste, criteria for siting low-level
27 radioactive waste treatment and burial facilities, alternatives to
28 land burial of low-level radioactive waste, and waste classification
29 schemes.

30 The committee shall include representatives from the field of
31 medicine, and from research, industrial, environmental, and
32 public health organizations, who have demonstrated expertise and
33 experience with radioactive materials, waste management, the
34 health effects of exposure to low-level radioactive waste, or the
35 environmental impact associated with the storage of low-level
36 radioactive waste. The director shall appoint to the advisory
37 committee the director of environmental health of the county
38 where a low-level radioactive waste disposal facility is sited.

39 25275.12. In implementing this chapter, the department,
40 consistent with other requirements imposed by this chapter to

1 protect public health and safety, shall promote the reduction of
2 low-level radioactive waste generated, both in volume and
3 radioactivity, by encouraging waste reduction practices,
4 including, but not limited to, all of the following:

5 (a) The minimization of waste produced by employing best
6 practices to reduce the amount of contaminated materials.

7 (b) The substitution and use of nonradioactive materials or
8 radioactive materials with shorter radioactive half-lives.

9 (c) The compaction of low-level radioactive waste to reduce
10 the volume of waste that must be transported and disposed of in the
11 state.

12
13 Article 6. Southwestern Low-Level Radioactive Waste
14 Disposal Compact
15

16 25276. The Legislature of the State of California hereby
17 enacts and ratifies the agreement set forth in Section 25276.1 and
18 designated as the “Southwestern Low-Level Radioactive Waste
19 Disposal Compact,” entered into pursuant to the Low-Level
20 Radioactive Waste Policy Act, as amended by the Low-Level
21 Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C.
22 Sec. 2021b to 2021j, incl.). This compact became effective in
23 accordance with Article 7 of the compact as set forth in former
24 Section 115255, as that section read on January 1, 2003.

25 25276.1. The provisions of the Southwestern Low-Level
26 Radioactive Waste Disposal Compact are as follows:

27
28 Article 1. Compact Policy and Formation
29

30 The party states hereby find and declare all of the following:

31 (A) The United States Congress, by enacting the Low-Level
32 Radioactive Waste Policy Act, Public Law 96-573, as amended by
33 the Low-Level Radioactive Waste Policy Amendments Act of
34 1985 (42 U.S.C. Sec. 2021b to 2021j, incl.), has encouraged the
35 use of interstate compacts to provide for the establishment and
36 operation of facilities for regional management of low-level
37 radioactive waste.

38 (B) It is the purpose of this compact to provide the means for
39 such a cooperative effort between or among party states to protect
40 the citizens of the states and the states’ environments.

1 (C) It is the policy of party states to this compact to encourage
2 the reduction of the volume of low-level radioactive waste
3 requiring disposal within the compact region.

4 (D) It is the policy of the party states that the protection of the
5 health and safety of their citizens and the most ecological and
6 economical management of low-level radioactive wastes can be
7 accomplished through cooperation of the states by minimizing the
8 amount of handling and transportation required to dispose of these
9 wastes and by providing facilities that serve the compact region.

10 (E) Each party state, if an agreement state pursuant to Section
11 2021 of Title 42 of the United States Code, or the Nuclear
12 Regulatory Commission if not an agreement state, is responsible
13 for the primary regulation of radioactive materials within its
14 jurisdiction.

15 Article 2. Definitions

16 As used in this compact, unless the context clearly indicates
17 otherwise, the following definitions apply:

18 (A) “Commission” means the Southwestern Low-Level
19 Radioactive Waste Commission established in Article 3 of this
20 compact.

21 (B) “Compact region” or “region” means the combined
22 geographical area within the boundaries of the party states.

23 (C) “Disposal” means the permanent isolation of low-level
24 radioactive waste pursuant to requirements established by the
25 Nuclear Regulatory Commission and the Environmental
26 Protection Agency under applicable laws, or by a party state if that
27 state hosts a disposal facility.

28 (D) “Generate,” when used in relation to low-level radioactive
29 waste, means to produce low-level radioactive waste.

30 (E) “Generator” means a person whose activity, excluding the
31 management of low-level radioactive waste, results in the
32 production of low-level radioactive waste.

33 (F) “Host county” means a county, or other similar political
34 subdivision of a party state, in which a regional disposal facility
35 is located or being developed.

36 (G) “Host state” means a party state in which a regional
37 disposal facility is located or being developed. The State of
38 California is the host state under this compact for the first 30 years

1 from the date the California regional disposal facility commences
2 operations.

3 (H) “Institutional control period” means that period of time in
4 which the facility license is transferred to the disposal site owner
5 in compliance with the appropriate regulations for long-term
6 observation and maintenance following the postclosure period.

7 (I) “Low-level radioactive waste” means regulated
8 radioactive material that meets all of the following requirements:

9 (1) The waste is not high-level radioactive waste, spent nuclear
10 fuel, or byproduct material (as defined in Section 11e(2) of the
11 Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014(e)(2))).

12 (2) The waste is not uranium mining or mill tailings.

13 (3) The waste is not any waste for which the federal
14 government is responsible pursuant to subdivision (b) of Section
15 3 of the Low-Level Radioactive Waste Policy Amendments Act of
16 1985 (42 U.S.C. Sec. 2021c(b)).

17 (4) The waste is not an alpha emitting transuranic nuclide with
18 a half-life greater than five years and with a concentration greater
19 than 100 nanocuries per gram, or Plutonium-241 with a
20 concentration greater than 3,500 nanocuries per gram, or
21 Curium-242 with a concentration greater than 20,000 nanocuries
22 per gram.

23 (J) “Management” means collection, consolidation, storage,
24 packaging, or treatment.

25 (K) “Major generator state” means a party state that generates
26 10 percent of the total amount of low-level radioactive waste
27 produced within the compact region and disposed of at the regional
28 disposal facility.

29 If no party state other than California generates at least 10
30 percent of the total amount, “major generator state” means the
31 party state which is second to California in the amount of waste
32 produced within the compact region and disposed of at the regional
33 disposal facility.

34 (L) “Operator” means a person who operates a regional
35 disposal facility.

36 (M) “Party state” means any state that has become a party in
37 accordance with Article 7 of this compact.

38 (N) “Person” means an individual, corporation, partnership,
39 or other legal entity, whether public or private.

(O) “Postclosure period” means that period of time after completion of closure of a disposal facility during which the licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal facility to assure that the disposal facility will remain stable and will not need ongoing active maintenance. This period ends with the beginning of the institutional control period.

(P) “Regional disposal facility” means a nonfederal low-level radioactive waste disposal facility established and operated under this compact.

(Q) “Site closure and stabilization” means the activities of the disposal facility operator taken at the end of the disposal facility’s operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at the disposal facility.

(R) “Transporter” means a person who transports low-level radioactive waste.

(S) “Uranium mine and mill tailings” means waste resulting from mining and processing of ores containing uranium.

Article 3. The Commission

(A) There is hereby established the Southwestern Low-Level Radioactive Waste Commission.

(1) The commission shall consist of one voting member from each party state to be appointed by the Governor, confirmed by the Senate of that party state, and to serve at the pleasure of the Governor of each party state, and one voting member from the host county. The appointing authority of each party state shall notify the commission in writing of the identity of the member and of any alternates. An alternate may act in the member’s absence.

(2) The host state shall also appoint that number of additional voting members of the commission that is necessary for the host state’s members to compose at least 51 percent of the membership on the commission. The host state’s additional members shall be appointed by the host state Governor and confirmed by the host state Senate.

If there is more than one host state, only the state in which is located the regional disposal facility actively accepting low-level

1 radioactive waste pursuant to this compact may appoint these
2 additional members.

3 (3) If the host county has not been selected at the time the
4 commission is appointed, the Governor of the host state shall
5 appoint an interim local government member, who shall be an
6 elected representative of a local government. After a host county
7 is selected, the interim local government member shall resign and
8 the Governor shall appoint the host county member pursuant to
9 paragraph (4).

10 (4) The Governor shall appoint the host county member from
11 a list of at least seven candidates compiled by the board of
12 supervisors of the host county.

13 (5) In recommending and appointing the host county member
14 pursuant to paragraph (4), the board of supervisors and the
15 Governor shall give first consideration to recommending and
16 appointing the member of the board of supervisors in whose
17 district the regional disposal facility is located or being developed.
18 If the board of supervisors of the host county does not provide a
19 list to the Governor of at least seven candidates from which to
20 choose, the Governor shall appoint a resident of the host county as
21 the host county member.

22 (6) The host county member is subject to confirmation by the
23 Senate of that party state and shall serve at the pleasure of the
24 Governor of the host state.

25 (B) The commission is a legal entity separate and distinct from
26 the party states and shall be so liable for its actions. Members of
27 the commission shall not be personally liable for actions taken in
28 their official capacity. The liabilities of the commission shall not
29 be deemed liabilities of the party states.

30 (C) The commission shall conduct its business affairs pursuant
31 to the laws of the host state and disputes arising out of commission
32 action shall be governed by the laws of the host state. The
33 commission shall be located in the capital city of the host state in
34 which the regional disposal facility is located.

35 (D) The commission's records shall be subject to the host
36 state's public records law, and the meetings of the commission
37 shall be open and public in accordance with the host state's open
38 meeting law.

39 (E) The commission members are public officials of the
40 appointing state and shall be subject to the conflict-of-interest

1 laws, as well as any other law, of the appointing state. The
2 commission members shall be compensated according to the
3 appointing state's law.

4 (F) Each commission member is entitled to one vote. A
5 majority of the commission constitutes a quorum. Unless
6 otherwise provided in this compact, a majority of the total number
7 of votes on the commission is necessary for the commission to take
8 any action.

9 (G) The commission has all of the following duties and
10 authority:

11 (1) The commission shall do, pursuant to the authority granted
12 by this compact, whatever is reasonably necessary to ensure that
13 low-level radioactive wastes are safely disposed of and managed
14 within the region.

15 (2) The commission shall meet at least once a year and
16 otherwise as business requires.

17 (3) The commission shall establish a compact surcharge to be
18 imposed upon party state generators. The surcharge shall be based
19 upon the cubic feet of low-level radioactive waste and the
20 radioactivity of the low-level radioactive waste and shall be
21 collected by the operator of the disposal facility.

22 The host state shall set, and the commission shall impose, the
23 surcharge after congressional approval of the compact. The
24 amount of the surcharge shall be sufficient to establish and
25 maintain at a reasonable level funds for all of the following
26 purposes:

27 (a) The activities of the commission and commission staff.

28 (b) At the discretion of the host state, a third-party liability fund
29 to provide compensation for injury to persons or property during
30 the operational, closure, stabilization, and postclosure and
31 institutional control periods of the regional disposal facility. This
32 subparagraph does not limit the responsibility or liability of the
33 operator, who shall comply with any federal or host state statutes
34 or regulations regarding third-party liability claims.

35 (c) A local government reimbursement fund, for the purpose of
36 reimbursing the local government entity or entities hosting the
37 regional disposal facility for any costs or increased burdens on the
38 local governmental entity for services, including, but not limited
39 to, general fund expenses, the improvement and maintenance of
40 roads and bridges, fire protection, law enforcement, monitoring by



1 local health officials, and emergency preparation and response
2 related to the hosting of the regional disposal facility.

3 (4) The surcharges imposed by the commission for purposes of
4 subparagraphs (b) and (c) of paragraph (3) and surcharges
5 pursuant to paragraph (3) of subdivision (E) of Article 4 shall be
6 transmitted on a monthly basis to the host state for distribution to
7 the proper accounts.

8 (5) The commission shall establish a fiscal year that conforms
9 to the fiscal years of the party states to the extent possible.

10 (6) The commission shall keep an accurate account of all
11 receipts and disbursements. An annual audit of the books of the
12 commission shall be conducted by an independent certified public
13 accountant, and the audit report shall be made a part of the annual
14 report of the commission.

15 (7) The commission shall prepare and include in the annual
16 report a budget showing anticipated receipts and disbursements
17 for the subsequent fiscal year.

18 (8) The commission may accept any grants, equipment,
19 supplies, materials, or services, conditional or otherwise, from the
20 federal or state government. The nature, amount and condition, if
21 any, of any donation, grant, or other resources accepted pursuant
22 to this paragraph and the identity of the donor or grantor shall be
23 detailed in the annual report of the commission.

24 However, the host state shall receive, for the uses specified in
25 subparagraph (E) of paragraph (2) of subsection (d) of Section
26 2021e of Title 42 of the United States Code, any payments paid
27 from the special escrow account for which the Secretary of Energy
28 is trustee pursuant to subparagraph (A) of paragraph (2) of
29 subsection (d) of Section 2021 (e) of Title 42 of the United States
30 Code.

31 (9) The commission shall submit communications to the
32 governors and to the presiding officers of the legislatures of the
33 party states regarding the activities of the commission, including
34 an annual report to be submitted on or before January 15 of each
35 year. The commission shall include in the annual report a review
36 of, and recommendations for, low-level radioactive waste disposal
37 methods which are alternative technologies to the shallow land
38 burial of low-level radioactive waste.

39 (10) The commission shall assemble and make available to the
40 party states, and to the public, information concerning low-level

1 radioactive waste management needs, technologies, and
2 problems.

3 (11) The commission shall keep a current inventory of all
4 generators within the region, based upon information provided by
5 the party states.

6 (12) The commission shall keep a current inventory of all
7 regional disposal facilities, including information on the size,
8 capacity, location, specific low-level radioactive wastes capable of
9 being managed, and the projected useful life of each regional
10 disposal facility.

11 (13) The commission may establish advisory committees for
12 the purpose of advising the commission on the disposal and
13 management of low-level radioactive waste.

14 (14) The commission may enter into contracts to carry out its
15 duties and authority, subject to projected resources. No contract
16 made by the commission shall bind a party state.

17 (15) The commission shall prepare contingency plans, with the
18 cooperation and approval of the host state, for the disposal and
19 management of low-level radioactive waste in the event that any
20 regional disposal facility should be closed.

21 (16) The commission may sue and be sued and, when
22 authorized by a majority vote of the members, may seek to
23 intervene in an administrative or judicial proceeding related to this
24 compact.

25 (17) The commission shall be managed by an appropriate staff,
26 including an executive director. Notwithstanding any other
27 provision of law, the commission may hire or retain, or both, legal
28 counsel.

29 (18) The commission may, subject to applicable federal and
30 state laws, recommend to the appropriate host state authority
31 suitable land and rail transportation routes for low-level
32 radioactive waste carriers.

33 (19) The commission may enter into an agreement to import
34 low-level radioactive waste into the region only if both of the
35 following requirements are met:

36 (a) The commission approves the importation agreement by a
37 two-thirds vote of the commission.

38 (b) The commission and the host state assess the affected
39 regional disposal facilities' capability to handle imported
40 low-level radioactive wastes and any relevant environmental or



economic factors, as defined by the host state's appropriate regulatory authorities.

(20) The commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The commission may approve the petition only by a two-thirds vote of the commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the commission.

(21) The commission may approve, only by a two-thirds vote of the commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling.

(22) The commission shall, not later than 10 years before the closure of the initial or subsequent regional disposal facility, prepare a plan for the establishment of the next regional disposal facility.

Article 4. Rights, Responsibilities, and Obligations of Party States

(A) There shall be regional disposal facilities sufficient to dispose of the low-level radioactive waste generated within the region.

(B) Low-level radioactive waste generated within the region shall be disposed of at regional disposal facilities and each party state shall have access to any regional disposal facility without discrimination.

(C) (1) Upon the effective date of this compact, the State of California shall serve as the host state and shall comply with the requirements of subdivision (E) for at least 30 years from the date the regional disposal facility begins to accept low-level radioactive waste for disposal. The extension of the obligation and duration shall be at the option of the State of California.

If the State of California does not extend this obligation, the party state, other than the State of California, which is the largest

1 major generator state shall then serve as the host state for the
2 second regional disposal facility.

3 The obligation of a host state which hosts the second regional
4 disposal facility shall also run for 30 years from the date the second
5 regional disposal facility begins operations.

6 (2) The host state may close its regional disposal facility when
7 necessary for public health or safety.

8 (D) The party states of this compact cannot be members of
9 another regional low-level radioactive waste compact entered into
10 pursuant to the Low-Level Radioactive Waste Policy Act, as
11 amended by the Low-Level Radioactive Waste Policy
12 Amendments Act of 1985 (42 U.S.C. Secs. 2021b to 2021j, incl.).

13 (E) A host state shall do all of the following:

14 (1) Cause a regional disposal facility to be developed on a
15 timely basis.

16 (2) Ensure by law, consistent with any applicable federal laws,
17 the protection and preservation of public health and safety in the
18 siting, design, development, licensing, regulation, operation,
19 closure, decommissioning, and long-term care of the regional
20 disposal facilities within the state.

21 (3) Ensure that charges for disposal of low-level radioactive
22 waste at the regional disposal facility are reasonably sufficient to
23 do all of the following:

24 (a) Ensure the safe disposal of low-level radioactive waste and
25 long-term care of the regional disposal facility.

26 (b) Pay for the cost of inspection, enforcement, and
27 surveillance activities at the regional disposal facility.

28 (c) Assure that charges are assessed without discrimination as
29 to the party state of origin.

30 (4) Submit an annual report to the commission on the status of
31 the regional disposal facility including projections of the facility's
32 anticipated future capacity.

33 (5) The host state and the operator shall notify the commission
34 immediately upon the occurrence of any event which could cause
35 a possible temporary or permanent closure of a regional disposal
36 facility.

37 (F) Each party state is subject to the following duties and
38 authority:

39 (1) To the extent authorized by federal law, each party state
40 shall develop and enforce procedures requiring low-level



1 radioactive waste shipments originating within its borders and
2 destined for a regional disposal facility to conform to packaging
3 and transportation requirements and regulations. These
4 procedures shall include, but are not limited to, all of the following
5 requirements:

6 (a) Periodic inspections of packaging and shipping practices.

7 (b) Periodic inspections of low-level radioactive waste
8 containers while in the custody of transporters.

9 (c) Appropriate enforcement actions with respect to violations.

10 (2) A party state may impose a surcharge on the low-level
11 radioactive waste generators within the state to pay for activities
12 required by paragraph (1).

13 (3) To the extent authorized by federal law, each party state
14 shall, after receiving notification from a host state that a person in
15 a party state has violated packaging, shipping, or transportation
16 requirements or regulations, take appropriate actions to ensure that
17 these violations do not continue. Appropriate actions may include,
18 but are not limited to, requiring that a bond be posted by the
19 violator to pay the cost of repackaging at the regional disposal
20 facility and prohibit future shipments to the regional disposal
21 facility.

22 (4) Each party state shall maintain a registry of all generators
23 within the state that may have low-level radioactive waste to be
24 disposed of at a regional disposal facility, including, but not
25 limited to, the amount of low-level radioactive waste and the class
26 of low-level radioactive waste generated by each generator.

27 (5) Each party state shall encourage generators within its
28 borders to minimize the volume of low-level radioactive waste
29 requiring disposal.

30 (6) Each party state may rely on the good faith performance of
31 the other party states to perform those acts which are required by
32 this compact to provide regional disposal facilities, including the
33 use of the regional disposal facilities in a manner consistent with
34 this compact.

35 (7) Each party state shall provide the commission with any data
36 and information necessary for the implementation of the
37 commission's responsibilities, including taking those actions
38 necessary to obtain this data or information.

39 (8) Each party state shall agree that only low-level radioactive
40 waste generated within the jurisdiction of the party states shall be

1 disposed of in the regional disposal facility, except as provided in
2 paragraph (19) of subdivision (G) of Article 3.

3 (9) Each party state shall agree that if there is any injury to
4 persons on property resulting from the operation of a regional
5 disposal facility, the damages resulting from the injury may be
6 paid from the third-party liability fund pursuant to subparagraph
7 (b) of paragraph (3) of subdivision (G) of Article 3, only to the
8 extent that the damages exceed the limits of liability insurance
9 carried by the operator. No party state, by joining this compact,
10 assumes any liability resulting from the siting, operation,
11 maintenance, long-term care, or other activity relating to a
12 regional facility, and no party state shall be liable for any harm or
13 damage resulting from a regional facility not located within the
14 state.

15 Article 5. Approval of Regional Facilities

16 A regional disposal facility shall be approved by the host state
17 in accordance with its laws. This compact does not confer any
18 authority on the commission regarding the siting, design,
19 development, licensure, or other regulation, or the operation,
20 closure, decommissioning, or long-term care of, any regional
21 disposal facility within a party state.

22 Article 6. Prohibited Acts and Penalties

23 (A) No person shall dispose of low-level radioactive waste
24 within the region unless the disposal is at a regional disposal
25 facility, except as otherwise provided in paragraphs (20) and (21)
26 of subdivision (G) of Article 3.

27 (B) No person shall dispose of or manage any low-level
28 radioactive waste within the region unless the low-level
29 radioactive waste was generated within the region, except as
30 provided in paragraphs (19), (20), and (21) of subdivision (G) of
31 Article 3.

32 (C) Violations of this section shall be reported to the
33 appropriate law enforcement agency within the party state's
34 jurisdiction.

35 (D) Violations of this section may result in prohibiting the
36 violator from disposing of low-level radioactive waste in the
37

1 regional disposal facility, as determined by the commission or the
2 host state.

3
4 Article 7. Eligibility, Entry into Effect, Congressional
5 Consent, Withdrawal, Exclusion
6

7 (A) The States of Arizona, North Dakota, South Dakota, and
8 California are eligible to become parties to this compact. Any
9 other state may be made eligible by a majority vote of the
10 commission and ratification by the legislatures of all of the party
11 states by statute, and upon compliance with those terms and
12 conditions for eligibility which the host state may establish. The
13 host state may establish all terms and conditions for the entry of
14 any state, other than the states named in this subparagraph, as a
15 member of this compact.

16 (B) Upon compliance with the other provisions of this
17 compact, an eligible state may become a party state by legislative
18 enactment of this compact or by executive order of the governor
19 of the state adopting this compact. A state becoming a party state
20 by executive order shall cease to be a party state upon adjournment
21 of the first general session of its legislature convened after the
22 executive order is issued, unless before the adjournment the
23 legislature enacts this compact.

24 (C) A party state, other than the host state, may withdraw from
25 the compact by repealing the enactment of this compact, but this
26 withdrawal shall not become effective until two years after the
27 effective date of the repealing legislation. If a party state which is
28 a major generator of low-level radioactive waste voluntarily
29 withdraws from the compact pursuant to this subdivision, that state
30 shall make arrangements for the disposal of the other party states'
31 low-level radioactive waste for a time period equal the period of
32 time it was a member of this compact.

33 If the host state withdraws from the compact, the withdrawal
34 shall not become effective until five years after the effective date
35 of the repealing legislation.

36 (D) A party state may be excluded from this compact by a
37 two-thirds vote of the commission members, acting in a meeting,
38 if the state to be excluded has failed to carry out any obligations
39 required by compact.

1 (E) This compact shall take effect upon the enactment by
2 statute by the legislatures of the State of California and at least one
3 other eligible state and upon the consent of Congress and shall
4 remain in effect until otherwise provided by federal law. This
5 compact is subject to review by Congress and the withdrawal of
6 the consent of Congress every five years after its effective date,
7 pursuant to federal law.

8
9 Article 8. Construction and Severability

10
11 (A) The provisions of this compact shall be broadly construed
12 to carry out the purposes of the compact, but the sovereign powers
13 of a party state shall not be infringed unnecessarily.

14 (B) This compact does not affect any judicial proceeding
15 pending on the effective date of this compact.

16 (C) If any provision of this compact or the application thereof
17 to any person or circumstances is held invalid, that invalidity shall
18 not affect other provisions or applications of the compact that can
19 be given effect without the invalid provision or application, and to
20 this end the provisions of this compact are severable.

21 (D) Nothing in this compact diminishes or otherwise impairs
22 the jurisdiction, authority, or discretion of either of the following:

23 (1) The Nuclear Regulatory Commission pursuant to the
24 Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et
25 seq.).

26 (2) An agreement state under Section 274 of the Atomic
27 Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

28 (E) Nothing in this compact confers any new authority on the
29 states or commission to do any of the following:

30 (1) Regulate the packaging or transportation of low-level
31 radioactive waste in a manner inconsistent with the regulations of
32 the Nuclear Regulatory Commission or the United States
33 Department of Transportation.

34 (2) Regulate health, safety, or environmental hazards from
35 source, byproduct, or special nuclear material.

36 (3) Inspect the activities of licensees of the agreement states or
37 of the Nuclear Regulatory Commission.

38 25276.2. Notwithstanding Section 25276.1, authority for
39 on-highway routing and enforcement relating to low-level
40 radioactive waste shall, pursuant to other provisions of law, remain

1 with the Department of the California Highway Patrol for
2 low-level radioactive waste generated from, and shipments into,
3 California.

4 25276.4. (a) The department may not issue a license to
5 dispose of low-level radioactive waste pursuant to this chapter, or
6 renew a license that has been issued by the department pursuant to
7 this chapter, unless the department determines that the siting,
8 design, operation, and closure of the facility will, at a minimum,
9 comply with the performance requirements and objectives of the
10 Nuclear Regulatory Commission specified in Part 61 of Title 10
11 of the Code of Federal Regulations.

12 (b) The department may not issue a license to dispose of
13 low-level radioactive waste pursuant to this chapter, or renew a
14 license that has been issued by the department pursuant to this
15 chapter, unless the disposal facility is sited, designed, constructed,
16 and operated to do all of the following:

17 (1) Consist of multiple, engineered barriers to provide for the
18 retention of the radioactive waste within the engineered barriers to
19 last not less than 500 years, using best available technology.

20 (2) Provide visual inspection or remote monitoring to detect
21 potential or actual releases of low-level radioactive waste from the
22 engineered barriers.

23 (3) Provide methods to prevent potential releases or remediate
24 actual releases of low-level radioactive waste from the engineered
25 barriers when monitoring detects potential or actual releases.

26 (4) Be sited in a location and with soils and hydrology that, if
27 the engineered barriers fail, the natural site characteristics would
28 minimize migration of radioactive materials.

29 (c) A facility for the disposal of low-level radioactive waste
30 may not use shallow land burial.

31 (d) (1) The department may issue a license to dispose of
32 low-level radioactive waste pursuant to this chapter only if the
33 department determines there is a preponderance of scientific
34 evidence that there is not a hydrologic pathway whereby the
35 Colorado River or any other agricultural or drinking water source
36 could be contaminated with radioactive waste and harm public
37 health or the environment.

38 (2) The proposed Ward Valley low-level radioactive disposal
39 site in San Bernardino County may not serve as the state's

1 low-level radioactive disposal facility for purposes of Article 5 of
2 the compact.

3 (3) The state may not accept ownership or any other property
4 rights to the site of the Ward Valley low-level radioactive waste
5 disposal facility.

6 (e) For the purposes of this section, the following terms have
7 the following meanings:

8 (1) “Commission” means the United States Nuclear
9 Regulatory Commission.

10 (2) “Compact” means the Southwestern Low-Level
11 Radioactive Waste Disposal Compact described in Section
12 25276.1.

13 (3) “Department” means the Department of Toxic Substances
14 Control.

15 (4) “Low-level radioactive waste” has the same meaning as
16 defined in Article 2 of the compact.

17 (5) “Low-level radioactive waste disposal facility,” or
18 “facility” means all contiguous land and structures, other
19 appurtenances, and improvements, on the land used for the
20 disposal of low-level radioactive waste.

21 (6) “Shallow land burial” means the disposal of low-level
22 radioactive waste in or within the upper 30 meters of the earth’s
23 surface without the use of additional confinement by engineered
24 barriers. Shallow land burial does not include the disposal of
25 low-level radioactive waste if the disposal facility meets the
26 requirements of subdivisions (b) and (c).

27 (f) The provisions of this section are severable. If any provision
28 of this section or its application is held invalid, that invalidity shall
29 not affect other provisions or applications that can be given effect
30 without the invalid provision or application.

31 25276.6. Notwithstanding Section 25276.1, authority for rail
32 transportation routing and enforcement relating to low-level
33 radioactive waste shall remain with the Public Utilities
34 Commission pursuant to the Public Utilities Act (Part 1
35 (commencing with Section 201) of Division 1 of the Public
36 Utilities Code) for low-level radioactive waste generated from,
37 and shipped into, California.

38 25276.7. The department shall adopt regulations specifying
39 the modes of transportation which are most protective of public

1 health and the environment that shall be used by generators to
2 transport low-level radioactive waste within the state.

3
4 Article 7. Federal-State Agreements
5

6 25277. The Governor, on behalf of this state, may enter into
7 agreements with the federal government providing for
8 discontinuance of certain of the federal government's
9 responsibilities with respect to sources of ionizing radiation and
10 the assumption thereof by this state. The agreements shall become
11 effective only when ratified by law.

12 25277.1. Any person who, on the effective date of an
13 agreement under former Section 115120, as that section read on
14 January 1, 2003, possesses a license issued by the federal
15 government shall be deemed to possess the same pursuant to a
16 license issued under this chapter. The license shall expire either 90
17 days after receipt from the department of a notice of expiration of
18 the license, or on the date of expiration specified in the federal
19 license, whichever is the earlier.

20 25277.2. The Legislature of the State of California hereby
21 ratifies and approves that certain agreement designated as the
22 "Agreement between the United States Atomic Energy
23 Commission and the State of California for Discontinuance of
24 Certain Commission Regulatory Authority and Responsibility
25 within the State Pursuant to Section 274 of the Atomic Energy Act
26 of 1954, as Amended," that was approved by the Chairman of the
27 Atomic Energy Commission on the ninth day of March 1962,
28 under authority of Section 274 of the Atomic Energy Act of 1954,
29 as amended (Public Law 86-373), and by the Governor of
30 California on the 12th day of March 1962, under authority of and
31 in conformity with former Section 115120 as that section read on
32 January 1, 2003, and the provisions of this agreement became
33 effective in accordance with Article IX of the agreement set forth
34 in former Section 115235, as that section read on January 1, 2003.

35 25277.3. The provisions of the agreement are as follows:
36

37 Article 1
38

39 Subject to the exceptions provided in Articles II, III, and IV, the
40 Commission shall discontinue, as of the effective date of this

1 Agreement, the regulatory authority of the Commission in the
2 State under Chapters 6, 7, and 8, and Section 161 of the Act with
3 respect to the following materials:

- 4 A. Byproduct materials;
- 5 B. Source materials; and
- 6 C. Special nuclear materials in quantities not sufficient to form
7 a critical mass.

8 9 Article II

10
11 This Agreement does not provide for discontinuance of any
12 authority and the Commission shall retain authority and
13 responsibility with respect to regulation of:

- 14 A. The construction and operation of any production or
15 utilization facility;
- 16 B. The export from or import into the United States of
17 byproduct, source, or special nuclear material, or of any
18 production or utilization facility;
- 19 C. The disposal into the ocean or sea of byproduct, source, or
20 special nuclear waste materials as defined in regulations or orders
21 of the Commission;
- 22 D. The disposal of other byproduct, source, or special nuclear
23 material as the Commission from time to time determines by
24 regulation or order should, because of the hazards or potential
25 hazards thereof, not be so disposed of without a license from the
26 Commission.

27 28 Article III

29
30 Notwithstanding this Agreement, the Commission may from
31 time to time by rule, regulation, or order, require that the
32 manufacturer, processor, or producer of any equipment, device,
33 commodity, or other product containing source, byproduct, or
34 special nuclear material shall not transfer possession or control of
35 the product except pursuant to a license or an exemption from
36 licensing issued by the Commission.
37



Article IV

This Agreement shall not affect the authority of the Commission under Subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V

The State will use its best efforts to maintain continuing compatibility between its program and the program of the Commission for the regulation of like materials. To this end the State will use its best efforts to keep the Commission informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria, and of proposed requirements for the design and distribution of products containing source, byproduct, or special nuclear material, and to obtain the comments and assistance of the Commission thereon.

Article VI

The Commission will use its best efforts to keep the State informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria and to obtain the comments and assistance of the State thereon.

Article VII

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the



1 Governor of the State, may terminate or suspend this Agreement
2 and reassert the licensing and regulatory authority vested in it
3 under the Act if the Commission finds that such termination or
4 suspension is required to protect the public health and safety.

5
6 Article IX
7

8 This Agreement, upon ratification by law of the State, shall
9 become effective on the ninety-first day after the adjournment of
10 the First Extraordinary Session of the 1962 California Legislature
11 or on September 1, 1962, whichever is later, and shall remain in
12 effect unless, and until such time as it is terminated pursuant to
13 Article VIII.

14
15 Article 8. Radionuclide Air Contaminants
16

17 25277.4. (a) For purposes of this article, the following terms
18 have the following meaning:

19 (1) “Federal act” means the Clean Air Act (42 U.S.C. Sec.
20 7401 et seq.) as amended by the Clean Air Act Amendments of
21 1990 (P.L. 101-549), and as the Clean Air Act may be further
22 amended.

23 (2) “Person” means, notwithstanding subdivision (i) of
24 Section 25274, any individual, corporation, partnership, limited
25 liability company, firm, association, trust, estate, public or private
26 institution, group, agency, political subdivision of this state, and
27 any other state or political subdivision or agency thereof, any legal
28 successor, representative, agent, or agency of the foregoing,
29 including, but not limited to, the United States Nuclear Regulatory
30 Commission, the Department of Energy, or any successor thereto,
31 and other federal agencies.

32 (b) Except as provided in subdivision (b) of Section 25277.7,
33 the definitions set forth in Section 112 of the federal act (42 U.S.C.
34 Sec. 7412) and Subpart A (commencing with Section 61.01) of
35 Subchapter C of Chapter 1 of Title 40 of the Code of Federal
36 Regulations shall apply to this article and to any regulations
37 adopted pursuant to this article.

38 25277.5. The department may establish a program to enable
39 the state to receive federal approval to implement and enforce
40 emission standards for radionuclides pursuant to Section 112 of

the federal act (42 U.S.C. Sec. 7412). The department may regulate federal facilities pursuant to this article only in accordance with the Clean Air Act, as specified in Section 7418 of Title 42 of the United States Code.

25277.6. If the state receives federal approval to implement and enforce emission standards for radionuclides pursuant to Section 25277.5, the department shall be responsible for the control of emissions of radionuclides into the air. However, nothing in this article shall be construed in any way to give the department any authority to regulate, or be construed to apply to, air emissions from nuclear powerplants that are licensed and regulated by the United States Nuclear Regulatory Commission.

25277.8. (a) Except as provided in subdivision (b), the regulations found in Subpart H (commencing with Section 61.90) of, and in Subpart I (commencing with Section 61.100) of, Part 61 of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and Appendixes B, D, and E of Part 61 (commencing with Section 61.01) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and Appendix A of Part 60 (commencing with Section 60.01) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations shall be deemed to be the regulations of the department for purposes of the regulation of radionuclide air emissions. Except for Sections 61.93 and 61.103 of Title 40 of the Code of Federal Regulations, any reference to the Environmental Protection Agency, or any division thereof, in those regulations shall be deemed to be a reference to the department. The department may amend those regulations in whole or in part pursuant to subdivision (b) or (c).

(b) (1) The department shall evaluate any proposed amendment to the federal regulations specified in subdivision (b) of Section 25277.4 and in subdivision (a) of this section that becomes effective on or after January 1, 1997.

(2) The department shall publish a notice in the California Regulatory Notice Register indicating that the amendment has been adopted by the Environmental Protection Agency as a final rule. The notice shall include the citation to the Federal Register or the Code of Federal Regulations related to the amendment. The notice shall also include the department's determination regarding whether the amendment is more stringent, equivalent to, or less stringent than, current state law or regulation.

1 (3) If the department determines that the amended federal
2 regulation would be equivalent to, or more stringent than, state law
3 or regulation, the amended federal regulation shall be deemed to
4 be a regulation of the department on the date that is 90 days from
5 the effective date of the amendment of the federal regulation or the
6 publication of the notice required by paragraph (2), whichever
7 date is later.

8 (c) In addition to the adoption of federal regulations as
9 department regulations pursuant to this article, the department
10 may adopt any other regulation that it determines to be necessary
11 to establish, implement, and enforce a program for the regulation
12 of radionuclide air emissions, consistent with the federal act.

13 (d) The department may charge each owner or operator of a
14 facility emitting radionuclides into the air, which is subject to
15 Section 61.90 or 61.100 of Title 40 of the Code of Federal
16 Regulations, an annual fee to pay the costs of implementing this
17 article. The department shall deposit the fees in the Radioactive
18 Materials Control Fund, for expenditure, upon appropriation by
19 the Legislature, for the implementation of this article.

20
21 Article 9. Recordkeeping and Enforcement

22
23 25278. (a) The department shall require each person who
24 acquires, possesses or uses a source of ionizing radiation to
25 maintain records relating to its receipt, storage, transfer or
26 disposal, and other records as the department may require, subject
27 to those exemptions that may be provided by regulation.

28 (b) The department shall require each person who possesses or
29 uses a source of ionizing radiation to maintain appropriate records
30 showing the radiation exposure of all individuals for whom
31 personnel monitoring is required by regulations of the department.
32 Copies of these records and those required to be kept in accordance
33 with subdivision (a) shall be submitted to the department upon
34 request.

35 (c) The department shall adopt reasonable regulations,
36 compatible with those of the United States Atomic Energy
37 Commission, pertaining to reports of exposure of personnel. The
38 regulations shall require that reports of excessive exposure be
39 made to the individual exposed and to the department, and shall

1 provide for periodic and terminal reports to individuals for whom
2 personnel monitoring is required.

3 (d) Section 6411 of the Labor Code does not exempt any person
4 from making any report required by this section.

5 25278.1. (a) *The person responsible for registering*
6 *mammographic X-ray equipment shall be responsible for assuring*
7 *that the mammographic X-ray equipment under his or her*
8 *jurisdiction has been inspected and that mammography quality*
9 *assurance tests are performed by a medical physicist, health*
10 *physicist, or other individual with qualifications similar to those*
11 *approved by the State Department of Health Services and*
12 *prescribed in the May 1990 version of the "Rules of Good Practice*
13 *for Supervision and Operation of Mammographic X-Ray*
14 *Equipment," as approved by the Radiologic Technology*
15 *Certification Committee.*

16 (b) *If the department adopts regulations on or after January 1,*
17 *1993, that provide similar or stronger protection of a patient's*
18 *health and safety than the "Rules of Good Practice for Supervision*
19 *and Operation of Mammographic X-Ray Equipment," as*
20 *determined by the department, then those rules shall no longer*
21 *apply to this section.*

22 25781.1.5. Whenever, in the judgment of the department, any
23 person has engaged in or is about to engage in any act or practice
24 that constitutes or will constitute a violation of this chapter or any
25 regulation or order issued pursuant to this chapter, and at the
26 request of the department, the Attorney General may apply to the
27 superior court for an order enjoining the act or practice, or for an
28 order directing compliance. Upon a showing by the department
29 that the person has engaged in or is about to engage in the act or
30 practice, the court may grant a permanent or temporary injunction,
31 restraining order, or other order.

32 25278.2. (a) A person may not use, manufacture, produce,
33 knowingly transport, transfer, receive, acquire, own, or possess,
34 any low-level radioactive waste unless the person is licensed by
35 with the department in accordance with this chapter and
36 regulations adopted pursuant to this chapter.

37 (b) A person may not manufacture, produce, transfer, acquire,
38 use, or possess any low-level radioactive waste or construct a
39 facility for those purposes, for which a permit or license is required
40 under the provisions of the Atomic Energy Act of 1954 (Public

1 Law 85-256) and that is subject to this chapter, unless the person
2 first obtains a license pursuant to this chapter.

3 (c) A violation of subdivision (b) is a misdemeanor.

4 25278.3. In the event of an emergency, the department may
5 impound or order the impounding of a source of ionizing radiation
6 in the possession of any person who is not equipped to observe or
7 fails to observe this chapter or any regulation issued pursuant to
8 this chapter.

9 25278.4. (a) The city attorney of the city or the district
10 attorney of the county in which any violation of this chapter
11 occurs, occurred, or will occur or the Attorney General, at the
12 request of the department, may institute, on behalf of the people
13 of the State of California any civil action necessary to carry out this
14 chapter including, but not restricted to, the enforcement of liens,
15 the obtaining of injunctions, or the imposition of civil penalties.

16 (b) (1) If a civil penalty is awarded pursuant to subdivision (a)
17 and the action is brought by a city attorney or district attorney, the
18 penalty shall be paid directly to the city or county. If no penalty is
19 awarded or paid, or both, the state shall have no obligation to make
20 any payment to the city or county.

21 (2) If a civil penalty is awarded pursuant to subdivision (a) and
22 the action is brought by the Attorney General, the penalty shall be
23 deposited in the General Fund.

24 25278.5. (a) Any person who violates this chapter or any
25 regulation adopted or order issued pursuant to this chapter is guilty
26 of a misdemeanor and shall, upon conviction, be punished by a fine
27 not to exceed ~~two thousand dollars (\$2,000)~~ *one thousand dollars*
28 *(\$1,000)*, or by imprisonment in the county jail for a period not to
29 exceed one year, or by both that fine and imprisonment.

30 (b) A person is guilty of a public offense if the person
31 knowingly disposes or causes the disposal of any radioactive
32 material regulated by this chapter in violation of this chapter or a
33 regulation adopted or order issued pursuant to this chapter at any
34 of the following, or if the person reasonably should have known
35 that the person was disposing or causing the disposal of the
36 material in violation of this chapter or a regulation adopted or
37 order issued pursuant to this chapter, at any of the following:

38 (1) A facility within the state that does not have a license for
39 disposal issued by the department pursuant to this chapter.

(2) At any point in the state that is not authorized according to this chapter.

(3) At any point not authorized by any other local, state, or federal agency having authority over radioactive materials.

(c) A person convicted of a violation of a public offense specified in subdivision (b) may be punished as follows:

(1) If the disposal is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison for 32, 48, or 72 months, except as otherwise provided in paragraph (2). The court may also impose, upon a person convicted of violating subdivision (b), a fine of not more than ~~two hundred thousand dollars (\$200,000)~~ *one hundred thousand dollars (\$100,000)* for each day of violation, except as otherwise provided in paragraph (2).

(2) If the act that violated subdivision (b) caused great bodily injury or caused a substantial probability that death could result, the person convicted may be punished by imprisonment in the state prison for 6, 10, or 14 years and may be fined not more than ~~five hundred thousand dollars (\$500,000)~~ *two hundred fifty thousand dollars (\$250,000)* for each day of violation.

(d) A person is guilty of a public offense if the person knowingly transports or causes the transportation of any radioactive material regulated by this chapter in violation of this chapter or a regulation adopted or order issued pursuant to this chapter to any of the following, or if the person reasonably should have known that the person was causing the transportation of the material in violation of this chapter or a regulation adopted or order issued pursuant to this chapter, to any of the following:

(1) A facility in the state that does not have a license from the department issued pursuant to this chapter.

(2) Any point in the state not authorized by this chapter.

(3) Any point in the state that is not authorized by any other local, state, or federal agency having authority over radioactive materials.

(e) A person convicted of a violation of a public offense specified in subdivision (d) may be punished as follows:

(1) If the transportation is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year, or

1 by imprisonment in the state prison for 32, 48, or 72 months,
2 except as otherwise provided in paragraph (2). The court may also
3 impose, upon a person convicted of violating subdivision (d), a
4 fine of not more than ~~two hundred thousand dollars (\$200,000)~~ *one*
5 *hundred thousand dollars (\$100,000)* for each day of violation,
6 except as provided by paragraph (2).

7 (2) If the transportation that violated subdivision (d) caused
8 great bodily injury or caused a substantial probability that death
9 could result, the person convicted may be punished by
10 imprisonment in the state prison for 6, 10, or 14 years and may be
11 fined not more than ~~five hundred thousand dollars (\$500,000)~~ *two*
12 *hundred fifty thousand dollars (\$250,000)* for each day of
13 violation.

14 (f) Notwithstanding any other provision of this chapter,
15 radioactive materials resulting from medical treatment that are
16 disposed or transported in a manner authorized pursuant to this
17 chapter, are exempt from subdivisions (b) to (e), inclusive.

18 ~~(g) A person convicted of the theft, as defined in Section 484~~
19 ~~of the Penal Code, of any amount of a radioactive material may be~~
20 ~~punished by imprisonment in the state prison for three, five, or~~
21 ~~seven years and may be fined not more than two hundred fifty~~
22 ~~thousand dollars (\$250,000) for each day of violation, or by both~~
23 ~~that fine and imprisonment.~~

24 (g) Notwithstanding subdivision (a), any person who violates
25 any provision of this chapter relating to mammography or the
26 regulations adopted pursuant to this chapter relating to
27 mammography is guilty of a misdemeanor and shall, upon
28 conviction thereof, be punished by a fine not to exceed five
29 thousand dollars (\$5,000), per day of offense, or by imprisonment
30 in the county jail not to exceed 180 days, or by both that fine and
31 imprisonment.

32 25278.6. (a) In any proceeding under this chapter for
33 granting or amending any license, or for determining compliance
34 with, or granting exceptions from, regulations adopted in
35 accordance with this chapter, the department shall afford an
36 opportunity for a hearing on the record upon the request of any
37 person whose interest may be affected by the proceeding, and shall
38 admit that person as a party to the proceeding.

(b) Proceedings for the suspension or revocation of licenses under this chapter shall be conducted in the same manner as a hearing conducted pursuant to Section 100171.

25278.7. Whenever the department finds that an emergency exists requiring immediate action to protect the public health and safety, the department may, without notice or hearing, issue a regulation or order reciting the existence of the emergency and requiring that action be taken as is deemed necessary to meet the emergency. Notwithstanding any provision of this chapter, the regulation or order shall be effective immediately. Any person to whom the regulation or order is directed shall comply therewith immediately, but on application to the department shall be afforded a hearing within 15 days. On the basis of the hearing, the emergency regulation or order shall be continued, modified, or revoked within 30 days after the hearing.

25278.8. Any final order entered in any proceeding under Sections 25278.6 and 25278.7 shall be subject to judicial review in the manner prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~25278.81. (a) A person is liable to the department for a civil penalty of not more than five thousand dollars (\$5,000) per offense, for each day the person intentionally or through gross negligence violates this chapter, or a rule or regulation adopted pursuant to this chapter, or who fails or refuses to comply with a cease and desist order or other order of the department issued under this chapter, and that action causes a substantial danger to the health of others.~~

~~(b) The remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.~~

~~(c) The department may issue an order to impose an administrative penalty not to exceed five thousand dollars (\$5,000) per day, per offense upon any person who intentionally or through gross negligence violates this chapter, or a regulation adopted pursuant to this chapter or who fails or refuses to comply with a cease and desist order or other order of the department issued pursuant to this chapter.~~

~~(1) In establishing a penalty amount pursuant to this subdivision, the department shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up~~

1 conditions posing a threat to the public health or safety or the
2 environment, the violator's ability to pay the penalty, and the
3 deterrent effect that the imposition of the penalty would have on
4 both the violator and the regulated community.

5 (2) An order issued pursuant to this subdivision shall be served
6 by personal service or certified mail and shall inform the person
7 served of the right to a hearing.

8 (3) A person served with an order pursuant to this section who
9 has been unable to resolve all violations with the department may,
10 within 15 days after service of the order, request a hearing pursuant
11 to paragraph (4) by filing with the department a notice of defense.
12 A notice of defense shall be deemed filed within the 15-day period
13 provided by this paragraph if it is postmarked within that 15-day
14 period. If no notice of defense is filed within the time limits
15 provided by this paragraph the order shall become final.

16 (4) Within 90 days of receipt of the notice of defense by the
17 department, the department shall schedule a hearing using an
18 administrative law judge of the Office of Administrative Hearings
19 of the Department of General Services, who shall conduct the
20 hearing in accordance with Chapter 4.5 (commencing with
21 Section 11400) of Part 1 of Division 3 of Title 2 of the Government
22 Code.

23 (5) The hearing decision issued pursuant to paragraph (4) shall
24 be effective and final upon issuance. A copy of the decision shall
25 be served by personal service or by certified mail upon the party
26 served with the order, or their representative, if any.

27 (6) A decision issued pursuant to paragraph (4) may be
28 reviewed by a court pursuant to Section 11523 of the Government
29 Code. In all proceedings pursuant to this subdivision, the court
30 shall uphold the decision of the department if the decision is based
31 upon substantial evidence in the record as a whole. The filing of
32 a petition for writ of mandate may not stay an action required
33 pursuant to this chapter or the accrual of any penalties assessed
34 pursuant to this chapter. This subdivision does not prohibit the
35 court from granting any appropriate relief within its jurisdiction.

36 Article 10. Transfer of Authority

37
38
39 25278.9. The Department of Toxic Substances Control
40 succeeds to, and is vested with, all the duties, powers, purposes,

responsibilities, and jurisdiction of the State Department of Health Services specified in Article 1 (commencing with Section 114705) of, and Article 3 (commencing with Section 114815) of, Chapter 5 of Part 9 of Division 104, as those provisions read on January 1, 2003, and all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health Services specified in Chapter 8 (commencing with Section 114965) of Part 9 of Title 104, as those provisions read on January 1, 2003, with respect to the any radioactive material or source of ionizing radiation not subject to Chapter 8 (commencing with Section 114965) of Part 9 of Title 104, as added by the act adding this chapter. *Services specified in Article 3 (commencing with Section 114662) of Chapter 4 of, Chapter 5 (commencing with Section 114705) of, and Chapter 8 (commencing with Section 114960) of, Part 9 of Division 104.*

25278.10. The department may expend the unexpended balance of funds available for use in connection with the performance of the functions of the State Department of Health Services transferred to the department pursuant to Section 25278.9.

25278.11. All officers and employees of the State Department of Health Services who, on January 1, 2004, are performing any duty, power, purpose, responsibility, or jurisdiction transferred to the department pursuant to Section 25278.9 and who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempted from civil service.

25278.12. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the State Department of Health Services for the performance of the functions transferred to the department by Section 25278.9.

1 25278.13. All officers or employees of the department
2 employed on and after January 1, 2004, shall be appointed by the
3 director.

4 ~~SEC. 2.—~~

5 SEC. 3. Chapter 6.69 (commencing with Section 25279) is
6 added to Division 20 of the Health and Safety Code, to read:

7
8 CHAPTER 6.69. REMEDIATION OF NUCLEAR WASTE
9

10 Article 1. Definitions
11

12 25279. For purposes of this article the following definitions
13 shall apply:

14 (a) “CERCLA” means the Comprehensive Environmental
15 Response, Compensation, and Liability Act of 1980, as amended
16 (42 U.S.C. Sec. 9601 et seq.).

17 (b) “EPA” means the federal Environmental Protection
18 Agency.

19 (c) “Person” means an individual, trust, firm, joint stock
20 company, business concern, partnership, limited liability
21 company, association, or corporation, including, but not limited
22 to, a government corporation. “Person” also includes any city,
23 county, district, commission, the state or any department, agency,
24 or political subdivision thereof, any interstate body, and the federal
25 government or any department or agency thereof, to the extent
26 permitted by law.

27 (d) “Radioactively contaminated property” means real
28 property under common ownership or control that is a location
29 where activities were undertaken that were subject to a license
30 issued pursuant to former Chapter 8 (commencing with Section
31 114960) of Part 9 of Division 104, as that chapter read on January
32 1, 2003, or by the Nuclear Regulatory Commission pursuant to the
33 Atomic Energy Act (42 U.S.C. Sec. 2014 et seq.), or the activities
34 were by, or for, an unlicensed federal entity, and the property is
35 contaminated with radioactive waste or radioactive material from
36 those activities.

37 25279.1. *The Legislature finds and declares that, for purposes*
38 *of cleanup of military bases, the radiation cleanup guidance of the*
39 *United States Department of Defense under the Base Realignment*
40 *and Closure Program is effectively consistent with the EPA*

1 *CERCLA standards, guidance, procedures, and practices, and*
2 *therefore a closed military base is not subject to this chapter*
3 *pursuant to subdivision (b) of Section 25279.2.*

4
5 Article 2. Remediation and Decontamination Standards

6
7 25279.2. (a) A person may not sell, transfer, or lease
8 radioactively contaminated property ~~for any subsequent land use~~
9 until the department certifies that the radioactive contamination
10 has been remediated. The department may not certify that the
11 radioactive contamination is remediated unless the remediation is
12 conducted pursuant to the standards, guidance, procedures, and
13 practices established by the EPA for sites with radioactive
14 contamination being remediated pursuant to CERCLA. The
15 department shall require that buildings with radioactive
16 contamination to be remediated employing the EPA's CERCLA
17 risk range and point of departure, the EPA criteria for determining
18 whether and how far to permit falling back from the risk point of
19 departure, and other applicable EPA standards, guidance,
20 procedures, and practices, *in effect on January 1, 2003, unless the*
21 *EPA determines that the standards, guidance, procedures, and*
22 *practices in effect on that date are not fully protective of human*
23 *health and the environment. In that case, the department may*
24 *adopt any subsequently adopted standards, guidance, procedures,*
25 *and practices that are incorporated by the EPA CERCLA program*
26 *that are more protective of human health and the environment*
27 *pursuant to this chapter.*

28 (b) This chapter does not apply to ~~former military bases~~ any
29 *portion of the real property, improved or otherwise, at a closed*
30 *military base, closed military facility, or closed military*
31 *installation that is transferred, sold, or leased by the United States*
32 *or by any subsequent owner or lessee.*

33 (c) Notwithstanding subdivision (a), a person may, prior to
34 completion of remediation of the radioactively contaminated
35 property, lease uncontaminated portions of the property for
36 industrial uses, or uses consistent with land zoned for open space,
37 including, but not limited to, grazing livestock and similar uses.

38 ~~SEC. 3.—~~

39 SEC. 4. *Section 107100 of the Health and Safety Code is*
40 *amended to read:*

1 107100. (a) ~~All fees payable under the Radiologic~~
2 ~~Technology Act (Section 27) shall be collected by and paid to the~~
3 ~~department for deposit into the Radiation Control Fund~~
4 ~~established pursuant to Section 114980~~ *The Nuclear Medicine and*
5 *Radiological Materials Control Fund, is hereby created as a*
6 *special fund in the State Treasury. All fees, penalties, interest*
7 *earned, and fines collected under the Radiologic Technology Act,*
8 *as defined in subdivision (f) of Section 27 or under Article 6*
9 *(commencing with Section 107150) that is in the Radiation*
10 *Control Fund as of January 1, 2004, is hereby transferred to the*
11 *Nuclear Medicine and Radiological Materials Control Fund.*

12 (b) ~~This section shall become operative on July 1, 1993. All~~
13 *moneys, including fees, penalties, interest earned, and fines*
14 *collected under the Radiologic Technology Act, as defined in*
15 *subdivision (f) of Section 27, under Section 107160, and under the*
16 *regulations adopted pursuant to those sections, shall be deposited*
17 *in the Nuclear Medicine and Radiological Materials Control*
18 *Fund. The moneys in the fund may be expended by the department,*
19 *upon appropriation by the Legislature, to cover the costs related*
20 *to the enforcement of the Radiologic Technology Act, as defined in*
21 *subdivision (f) of Section 27, and Article 6 (commencing with*
22 *Section 107150). In addition to any moneys collected by, or on*
23 *behalf of, the department, for deposit in the Nuclear Medicine and*
24 *Radiological Materials Control Fund, all interest earned by the*
25 *Nuclear Medicine and Radiological Materials Control Fund shall*
26 *be deposited in the Nuclear Medicine and Radiological Materials*
27 *Control Fund.*

28 SEC. 5. *Section 114650 of the Health and Safety Code is*
29 *amended to read:*

30 114650. (a) As used in this chapter, the following definitions
31 shall apply:

32 (1) “Department” means the ~~State Department of Health~~
33 ~~Services~~ *Department of Toxic Substances Control.*

34 (2) “Disburse or disbursement” means a payment in advance
35 from the Nuclear Planning Assessment Special Account, as
36 specified in paragraph (5) of subdivision (b) of Section 8610.5 of
37 the Government Code.

38 (3) “Emergency planning zone” means a zone identified in
39 state and local government emergency plans where immediate

1 decisions for effective public protective action from radiation may
2 be necessary.

3 (4) “Exercise” means an event that tests emergency plans and
4 organizations and that the Federal Emergency Management
5 Agency evaluates pursuant to Part 350 (commencing with Section
6 350.1) of Subchapter E of Chapter I of Title 44 of the Code of
7 Federal Regulations.

8 (5) “Ingestion pathway phase” means the period beginning
9 after any release of radioactive material from a nuclear powerplant
10 accident when the plume emergency phase has ceased, and reliable
11 environmental measurements are available for making decisions
12 on additional protective actions to protect the food chain. The main
13 concern is to prevent exposure from ingestion of contaminated
14 water or food, such as milk, fresh vegetables, or aquatic foodstuffs.

15 (6) “Ingestion pathway zone” means the 50-mile radius
16 around each of the state’s nuclear powerplants in which protective
17 actions may be required to protect the food chain in the event of
18 an emergency.

19 (7) “Interjurisdictional Planning Committee” means the
20 planning committee, comprised of representatives of the Counties
21 of Orange and San Diego, the Cities of Dana Point, San Clemente,
22 and San Juan Capistrano, the Camp Pendleton Marine Corps Base,
23 the State Department of Parks and Recreation, and the Southern
24 California Edison Company, established as a mechanism for
25 coordinating integrated preparedness and response in the event of
26 an emergency at the San Onofre Nuclear Generating Station.

27 (8) “Local government” means a city or county that provides
28 emergency response for a nuclear powerplant emergency.

29 (9) “Local jurisdiction” means an entity that provides
30 emergency response for a nuclear powerplant emergency in
31 accordance with the plans of a local government.

32 (10) “Office” means the Office of Emergency Services.

33 (11) “Plume emergency phase” means the period beginning at
34 the onset of an emergency at a nuclear powerplant when immediate
35 decisions for public protective actions are needed.

36 (12) “Recovery phase” means the period when actions
37 designed to reduce radiation levels in the environment to
38 acceptable levels for unrestricted use are commenced, and ending
39 when all recovery actions have been completed.

(13) “Site” means the location of a nuclear powerplant and its surrounding emergency planning zone.

SEC. 6. The heading of Article 3 (commencing with Section 114662) of Chapter 4 of Part 9 of Division 104 of the Health and Safety Code is amended to read:

Article 3. Responsibilities of the ~~State Department of Health~~
~~Services~~ *Department of Toxic Substances Control*

SEC. 7. Chapter 5 (commencing with Section 114705) of Part 9 of Division 104 of the Health and Safety Code is repealed.

~~SEC. 4. Chapter 5 (commencing with Section 114705) is added to Part 9 of Division 104 of the Health and Safety Code, to read:~~

~~CHAPTER 5.—RADIATION MONITORING DEVICES FOR NUCLEAR
POWERPLANTS~~

~~114705.—As used in this chapter the following terms have the meanings described in this section:~~

~~(a) “Department” means the State Department of Health Services.~~

~~(b) “Environment” means all places outside the control of the person responsible for the radioactive materials.~~

~~(c) “Person” includes any association of persons, copartnership or corporation.~~

~~(d) “Radiation,” or “ionizing radiation,” means gamma rays and X rays; alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.~~

~~(e) “Radioactive material” means any material or combination of materials that spontaneously emits ionizing radiation.~~

~~(f) “Radiological monitoring” means the measurement of the amounts and kinds of radioactive materials in the environment.~~

~~114785.—Each privately owned and publicly owned public utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more shall establish a system of offsite radiation monitoring devices as specified by the Nuclear Regulatory Commission pursuant to Regulatory Guide 1.97 or related standards. The utility shall consult with the department and~~

1 ~~the appropriate county emergency services agency regarding the~~
2 ~~type, number, and locations of the radiation monitoring devices.~~
3 ~~The consultation with the department and the appropriate county~~
4 ~~emergency services agency shall be completed prior to submitting~~
5 ~~a plan to the Nuclear Regulatory Commission regarding the~~
6 ~~radiation monitoring devices.~~

7 ~~114790. The information transmitted to the radiation~~
8 ~~monitoring displays in the technical support center or emergency~~
9 ~~operating facility of a nuclear powerplant shall be simultaneously~~
10 ~~transmitted to the Office of Emergency Services State Warning~~
11 ~~Center.~~

12 ~~114795. The Public Utilities Commission shall allow the~~
13 ~~funds expended by privately owned utilities in compliance with~~
14 ~~this article to be included for ratemaking purposes. A publicly~~
15 ~~owned utility shall include the funds expended complying with~~
16 ~~this chapter in its rates.~~

17 ~~114800. A plant operator may not be required to spend more~~
18 ~~than one million dollars (\$1,000,000) in capital outlay for a~~
19 ~~nuclear powerplant site in complying with this chapter.~~

20 ~~114805. This chapter does not require powerplant~~
21 ~~modifications or the conduct of operations that may be in conflict~~
22 ~~with conditions of the license to operate issued by the Nuclear~~
23 ~~Regulatory Commission or with other activities authorized by the~~
24 ~~Nuclear Regulatory Commission, or that may be in conflict with~~
25 ~~the regulations of the Environmental Protection Agency.~~

26 ~~114810. Failure to comply with this article shall not constitute~~
27 ~~the basis for an action in a court of law or in an administrative~~
28 ~~proceeding to enjoin or prevent the operation or startup of a~~
29 ~~nuclear facility.~~

30 ~~SEC. 5.—~~

31 ~~SEC. 8. Chapter 8 (commencing with Section 114960) of Part~~
32 ~~9 of Division 104 of the Health and Safety Code is repealed.~~

33 ~~SEC. 6. Chapter 8 (commencing with Section 114960) is~~
34 ~~added to Part 9 of Division 104 of the Health and Safety Code, to~~
35 ~~read:~~

36

~~114960. This chapter shall be known, and may be cited, as the Nuclear Medicine and Radiological Materials Licensing Act.~~

(1) “Health care facility” means a medical or dental office, clinic, hospital, surgery center, laboratory, research laboratory, those facilities required to be licensed pursuant to Division 2 (commencing with Section 1200), chronic dialysis clinics, as regulated pursuant to Division 2 (commencing with Section 1200), and education and research facilities, veterinary offices, veterinary clinics, and veterinary hospitals.

~~(3) “Onsite” means the location of a health care facility or a common storage facility on the same or immediately adjacent property as the health care facility.~~

~~(1) A radioactive material or a source of ionizing radiation that is located onsite at a health care facility.~~

(c) This chapter does not apply to a radioactive material or source of ionizing radiation specified in subdivision (b) that meets any of the following conditions:

~~(2) The radioactive material or source of ionizing radiation is discarded, relinquished, or abandoned.~~

96



1 ~~114965. It is the policy of the State of California, in~~
2 ~~furtherance of its responsibility to protect the public health and~~
3 ~~safety, to institute and maintain a regulatory program for sources~~
4 ~~of ionizing radiation so as to provide for all of the following:~~

5 ~~(a) Compatibility with the standards and regulatory programs~~
6 ~~of the federal government.~~

7 ~~(b) An integrated effective system of regulation within the~~
8 ~~state.~~

9 ~~(c) A system consonant insofar as possible with those of other~~
10 ~~states.~~

11 ~~114970. It is the purpose of this chapter to effectuate the~~
12 ~~policies set forth in Section 114965 by providing for programs to~~
13 ~~do all of the following:~~

14 ~~(a) Effectively regulate sources of ionizing radiation for the~~
15 ~~protection of the occupational and public health and safety.~~

16 ~~(b) Promote an orderly regulatory pattern within the state,~~
17 ~~among the states, and between the federal government and the~~
18 ~~state, and facilitate intergovernmental cooperation with respect to~~
19 ~~use and regulation of sources of ionizing radiation to the end that~~
20 ~~duplication of regulation may be minimized.~~

21 ~~(c) Establish procedures for assumption and performance of~~
22 ~~certain regulatory responsibilities with respect to byproduct,~~
23 ~~source, and special nuclear materials.~~

24 ~~(d) Permit maximum utilization of sources of ionizing~~
25 ~~radiation consistent with the health and safety of the public.~~

26 ~~114975. Rules and regulations adopted under this chapter~~
27 ~~shall be adopted in accordance with Chapter 3.5 (commencing~~
28 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~
29 ~~Government Code, and Section 114920 of this code.~~

30 ~~114980. The Nuclear Medicine and Radiological Materials~~
31 ~~Control Fund is hereby created as a special fund in the State~~
32 ~~Treasury. All moneys, including fees, penalties, interest earned,~~
33 ~~and fines collected under Sections 107100, 107160, 115065, and~~
34 ~~115080, and the regulations adopted pursuant to those sections,~~
35 ~~shall be deposited in the Nuclear Medicine and Radiological~~
36 ~~Materials Control Fund to cover the costs related to the~~
37 ~~enforcement of this chapter, including, but not limited to,~~
38 ~~implementation of Article 6 (commencing with Section 107150)~~
39 ~~of Chapter 4 of Part 1, and the Radiologic Technology Act, as~~
40 ~~defined in subdivision (f) of Section 27, and shall be available for~~

~~expenditure by the department only upon appropriation by the Legislature. In addition to any moneys collected by, or on behalf of, the department for deposit in the Nuclear Medicine and Radiological Materials Control Fund, all interest earned by the Nuclear Medicine and Radiological Materials Control Fund shall be deposited in the Nuclear Medicine and Radiological Materials Control Fund.~~

~~114985. — As used in this chapter the following definitions shall apply:~~

~~(a) “Secretary” means the Secretary of the Resources Agency.~~

~~(b) “Ionizing radiation” means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, visible, infrared, or ultraviolet light, or low-level radioactive waste.~~

~~(c) “Person” means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, the United States Department of Energy, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, under prime contract to the United States Department of Energy, or any successor thereto.~~

~~(d) “Byproduct material” means any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to, the process of producing or utilizing special nuclear material.~~

~~(e) “Source material” means any of the following:~~

~~(1) Uranium, thorium, or any other material that the department declares by regulation to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be source material.~~

~~(2) Ores containing one or more of the materials specified in paragraph (1) in a concentration that the department declares by regulation to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material in that concentration to be source material.~~

~~(f) “Special nuclear material” means either of the following:~~

~~(1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the department declares by regulation to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, determines the material to be special nuclear material, excluding source material.~~

~~(2) Any material artificially enriched by any of the materials specified in paragraph (1), excluding source material.~~

~~(g) “General license” means a license, pursuant to regulations promulgated by the department, effective without the filing of an application, to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.~~

~~(h) “Specific license” means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.~~

~~(i) “Registration” means the reporting of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with subdivision (b) of Section 115060.~~

~~(j) “Department” means the State Department of Health Services.~~

~~(k) “Director” means the State Director of Health Services.~~

~~(l) “Federal research and development activity” means any activity of the Secretary of Energy conducted at any research facility owned or operated by the United States Department of Energy.~~

~~(m) “Low level radioactive waste” means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or the byproduct material defined in Section 11(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014(c)(2)). For purposes of this subdivision, the following definitions shall apply:~~

~~(1) “High-level radioactive waste” means either of the following:~~

~~(A) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived~~

1 from this liquid waste that contains fission products in sufficient
2 concentrations.

3 (B) ~~Other highly radioactive material that the Nuclear~~
4 ~~Regulatory Commission, consistent with existing law, determines~~
5 ~~by rule requires permanent isolation.~~

6 (2) ~~“Spent nuclear fuel” means fuel that has been withdrawn~~
7 ~~from a nuclear reactor following irradiation, the constituent~~
8 ~~elements of which have not been separated by reprocessing.~~

9 (3) ~~“Transuranic waste” means any waste containing more~~
10 ~~than 100 nanocuries of alpha emitting transuranic nuclides with~~
11 ~~half-life greater than five years per gram of waste material.~~

12 (n) ~~“Mammogram” means an X-ray image of the human~~
13 ~~breast.~~

14 (o) ~~“Mammography” means the procedure for creating a~~
15 ~~mammogram.~~

16 (p) ~~“Mammography quality assurance” means the detection of~~
17 ~~a change in X-ray and ancillary equipment that adversely affects~~
18 ~~the quality of films and the glandular radiation dose, and the~~
19 ~~correction of this change.~~

20 (q) ~~“Mammogram certification” means a certification, issued~~
21 ~~by the department after registration, that the equipment dedicated~~
22 ~~to or used for mammography meets the standards prescribed~~
23 ~~pursuant to this chapter.~~

24 Article 3.—Control Agency

25 114990. ~~The department is designated as the agency~~
26 ~~responsible for the issuance of licenses. In carrying out its duties~~
27 ~~under this section, the department may enter into an agreement~~
28 ~~with the Division of Occupational Safety and Health and other~~
29 ~~state and local agencies to conduct technical evaluations of license~~
30 ~~applications prior to issuance of licenses. The agreements shall~~
31 ~~also include provisions for conducting inspections in accordance~~
32 ~~with Section 115095.~~

33 115000. ~~The department shall, for the protection of public~~
34 ~~health and safety do all of the following:~~

35 (a) ~~Develop programs for evaluation of hazards associated with~~
36 ~~use of sources of ionizing radiation.~~

37 (b) ~~Develop programs, with due regard for compatibility with~~
38 ~~federal programs, for licensing and regulation of byproduct,~~

1 ~~source, and special nuclear materials, and other radioactive~~
2 ~~materials.~~

3 ~~(e) Except as provided in Section 18930, adopt regulations~~
4 ~~relating to control of other sources of ionizing radiation.~~

5 ~~(d) Issue any regulations that may be necessary in connection~~
6 ~~with proceedings under Article 4 (commencing with Section~~
7 ~~115060).~~

8 ~~(e) Collect and disseminate information relating to control of~~
9 ~~sources of ionizing radiation, including all of the following:~~

10 ~~(1) Maintenance of a file of all license applications, issuances,~~
11 ~~denials, amendments, transfers, renewals, modifications,~~
12 ~~suspensions, and revocations.~~

13 ~~(2) Maintenance of a file of all regulations relating to~~
14 ~~regulation of sources of ionizing radiation, pending or adopted,~~
15 ~~and proceedings thereon.~~

16 ~~(3) Disseminate information regarding the evaluation of~~
17 ~~hazards associated with the use of sources of ionizing radiation.~~

18 ~~115011. Nothing in this chapter shall be construed as~~
19 ~~precluding the Division of Occupational Safety and Health from~~
20 ~~adopting and enforcing regulations relating to matters within its~~
21 ~~jurisdiction consistent with, in furtherance of, and designed to~~
22 ~~implement this chapter and the regulations adopted pursuant to this~~
23 ~~chapter.~~

24
25 ~~Article 4. Licensing and Regulation of Sources of Ionizing~~
26 ~~Radiation~~
27

28 ~~115060. (a) The department shall adopt regulations for~~
29 ~~general or specific licensing of persons to receive, possess, or~~
30 ~~transfer radioactive materials, or devices or equipment utilizing~~
31 ~~these materials. The regulations shall provide for the amendment,~~
32 ~~suspension, or revocation of licenses.~~

33 ~~(b) The department may require registration and inspection of~~
34 ~~sources of ionizing radiation other than those that require a specific~~
35 ~~license, and compliance with specific safety standards to be~~
36 ~~adopted by the department.~~

37 ~~(c) The department may exempt certain sources of ionizing~~
38 ~~radiation or kinds of uses or users from the licensing or registration~~
39 ~~requirements set forth in this section when the department makes~~
40 ~~a finding that the exemption of these sources of ionizing radiation~~

1 or kinds of uses or users will not constitute a significant risk to the
2 health and safety of the public.

3 (d) Regulations adopted pursuant to this chapter may provide
4 for recognition of other state or federal licenses as the department
5 may deem desirable, subject to registration requirements as the
6 department may prescribe.

7 (e) The department shall adopt registration and certification
8 regulations for mammography equipment. These regulations shall
9 include, but not be limited to, all of the following requirements:

10 (1) An X-ray machine used for mammography shall be
11 specifically designed for mammography and inspected by the
12 department, or deemed satisfactory by the department based upon
13 evidence of certification by the American College of Radiology
14 mammography accreditation program, or an accreditation
15 program that the department deems equivalent before it is
16 certified.

17 (2) That all persons who have a certificate for mammography
18 equipment follow a quality assurance program to be adopted by the
19 department to ensure the protection of the public health and safety.

20 (3) That quality assurance tests, as determined by the
21 department, are performed on all mammography equipment
22 located in a mobile van or unit after each relocation of the mobile
23 van or unit to a different location for the purpose of providing
24 mammography. This equipment shall be recalibrated if images are
25 not of diagnostic quality as determined by the department. A
26 written record of the location of mobile vans or units with dates
27 and times shall be maintained and available for inspection by the
28 department.

29 (4) On or after July 15, 1993, all mammography equipment
30 shall be registered with and certified by the department. If this
31 mammography equipment is certified by a private accreditation
32 organization, the department shall take into consideration
33 evidence of this private certification when deciding to issue a
34 mammogram certification.

35 (5) All licenses, permits, and certificates issued by the
36 department pursuant to this chapter and the Radiologic
37 Technology Act, as defined in subdivision (f) of Section 27,
38 relating to the use of mammography equipment shall be publicly
39 posted pursuant to this section and regulations adopted by the
40 department.

1 ~~(f) To further ensure the quality of mammograms, the~~
2 ~~department shall require all mammogram facilities, other than~~
3 ~~mobile units or vans, to operate quickly and efficiently so as to~~
4 ~~ensure that the facilities are able to develop mammograms of~~
5 ~~diagnostic quality prior to when the patient leaves the facility.~~

6 ~~115065. (a) Notwithstanding Section 6103 of the~~
7 ~~Government Code, the department shall provide by regulation a~~
8 ~~schedule of the fees that shall be paid by the following persons:~~

9 ~~(1) Persons possessing radioactive materials under licenses~~
10 ~~issued by the department or under other state or federal licenses for~~
11 ~~the use of these radioactive materials, when these persons use these~~
12 ~~radioactive materials in the state in accordance with the~~
13 ~~regulations adopted pursuant to subdivision (d) of Section 115060.~~

14 ~~(2) Persons generally licensed for the use of devices and~~
15 ~~equipment utilizing radioactive materials that are designed and~~
16 ~~manufactured for the purpose of detecting, measuring, gauging, or~~
17 ~~controlling thickness, density, level, interface location, radiation,~~
18 ~~leakage, or qualitative or quantitative chemical composition, or~~
19 ~~for producing light or an ionized atmosphere, if the devices are~~
20 ~~manufactured pursuant to a specific license authorizing~~
21 ~~distribution to general licensees.~~

22 ~~(b) The revenues derived from the fees shall be used, together~~
23 ~~with other funds made available therefor, for the purpose of the~~
24 ~~issuance of licenses or the inspection and regulation of the~~
25 ~~licensees.~~

26 ~~(c) The department may adopt emergency regulations pursuant~~
27 ~~to Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
28 ~~Division 3 of Title 2 of the Government Code to establish and~~
29 ~~adjust fees for radioactive materials licenses in an amount to~~
30 ~~produce estimated revenues equal to at least 95 percent of the~~
31 ~~department's costs in carrying out these licensing requirements, if~~
32 ~~the new fees were to remain in effect throughout the fiscal year for~~
33 ~~which the fee is established or adjusted.~~

34 ~~(d) A local agency participating in a negotiated agreement~~
35 ~~pursuant to Section 114990 shall be fully reimbursed for direct and~~
36 ~~indirect costs based upon activities governed by Section 115070.~~
37 ~~With respect to these agreements, any salaries, benefits, and other~~
38 ~~indirect costs shall not exceed comparable costs of the department.~~

~~(c) The fees for licenses for radioactive materials and of devices and equipment utilizing those materials shall be adjusted annually pursuant to Section 100425.~~

~~115070. The frequency of inspections of radioactive materials shall be based on priorities established by the United States Nuclear Regulatory Commission.~~

~~115075. In addition to the annual adjustment of the fees authorized by this chapter pursuant to Section 100425, on or before January 1, 1991, the director may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to establish and adjust these fees, and for purposes of that chapter, including Section 11349.6 of the Government Code, an adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.~~

~~115080. (a) Notwithstanding Section 6103 of the Government Code, the department shall provide by regulation a ranking of priority for inspection, as determined by the degree of potentially damaging exposure of persons by ionizing radiation and the requirements of Section 115085, and a schedule of fees, based upon that priority ranking, that shall be paid by persons possessing sources of ionizing radiation that are subject to registration in accordance with subdivisions (b) and (c) of Section 115060, and regulations adopted pursuant thereto.~~

~~(b) The revenues derived from the fees imposed pursuant to subdivision (a) shall be used, together with other funds made available therefor, for the purpose of carrying out any inspections of the sources of ionizing radiation required by this chapter or regulations adopted pursuant to this chapter.~~

~~(c) The department shall set the fees imposed pursuant to subdivision (a), together with any other funds made available to the department, in an amount sufficient to cover the costs of administering this chapter, and an amount intended to cover the costs of administering this chapter for each priority source of ionizing radiation. Revenues generated by the fees shall not offset any general funds appropriated for the support of the radiologic programs authorized pursuant to this chapter, and the Radiologic~~

1 ~~Technology Act, as defined in subdivision (f) of Section 27, and~~
2 ~~Chapter 7.6 (commencing with Section 114960).~~

3 ~~(d) The department may not require a person who pays the fees~~
4 ~~imposed pursuant to this section to pay, directly or indirectly, for~~
5 ~~the share of the costs of administering this chapter of those persons~~
6 ~~for whom fees are waived. The department shall take into~~
7 ~~consideration any contract payment from the Health Care~~
8 ~~Financing Administration for performance of inspections for~~
9 ~~Medicare certification and shall reduce this fee accordingly.~~

10 ~~115081. (a) A local agency participating in a negotiated~~
11 ~~agreement pursuant to Section 114990 shall be fully reimbursed~~
12 ~~for direct and indirect costs based upon activities governed by~~
13 ~~Section 115085.~~

14 ~~(b) With respect to these agreements, any salaries, benefits, and~~
15 ~~other indirect costs shall not exceed comparable costs of the~~
16 ~~department. Any changes in the frequency of inspections or the~~
17 ~~level of reimbursement to local agencies made by this section or~~
18 ~~Section 115085 during the 1985-86 Regular Session shall not~~
19 ~~affect ongoing contracts.~~

20 ~~(c) The fees paid by persons possessing sources of ionizing~~
21 ~~radiation shall be adjusted annually pursuant to Section 100425.~~

22 ~~(d) The department shall establish two different registration~~
23 ~~fees for mammography equipment pursuant to this section based~~
24 ~~upon whether the equipment is accredited by an independent~~
25 ~~accrediting agency recognized under the federal Mammography~~
26 ~~Quality Standards Act (42 U.S.C. Sec. 263b).~~

27 ~~115085. The average inspection frequency for ionizing~~
28 ~~radiation machines shall be once each year for mammography~~
29 ~~X-ray units, once every three years for high-priority sources of~~
30 ~~ionizing radiation, and once every four and one-quarter years for~~
31 ~~medium-priority sources. Sources of ionizing radiation used in~~
32 ~~dentistry shall be screened for defects by mail or other offsite~~
33 ~~methodology not less frequently than once every five years, with~~
34 ~~physical inspection of the 50 percent, determined by the~~
35 ~~department to be most in need of inspection, to average at least~~
36 ~~once every six years.~~

37 ~~115090. In making the determination of whether to grant,~~
38 ~~deny, amend, revoke, suspend, or restrict a certification,~~
39 ~~registration, or license, the department may consider those aspects~~
40 ~~of a person's background that, in its judgment, bear materially on~~

1 that person's ability to fulfill her or his obligations, including, but
2 not limited to, technical competency and her or his current or prior
3 record in areas involving ionizing radiation.

4 ~~115091. The department shall require a licensee or an~~
5 ~~applicant for a license pursuant to Section 115060 to receive,~~
6 ~~possess, or transfer radioactive materials, or devices or equipment~~
7 ~~utilizing radioactive materials, to provide a financial surety to~~
8 ~~ensure performance of its obligations under this chapter. The~~
9 ~~department shall establish, by regulation, the amount and type of~~
10 ~~financial surety that is required to be provided in order to provide~~
11 ~~for maximum protection of the public health and safety and the~~
12 ~~environment. The financial surety shall be in the form of surety~~
13 ~~bonds, deposits of government securities, escrow accounts, lines~~
14 ~~of credit, trust funds, credit insurance, or any other equivalent~~
15 ~~financial surety arrangement acceptable to the department. The~~
16 ~~department shall adopt the regulations in accordance with, but not~~
17 ~~limited to, the following criteria:~~

18 ~~(a) Consideration of the need for, and scope of, any~~
19 ~~decontamination, decommissioning, reclamation, or disposal~~
20 ~~activities required to protect the public health and safety and the~~
21 ~~environment.~~

22 ~~(b) Estimates of the costs of the required decontamination,~~
23 ~~decommissioning, reclamation, or disposal.~~

24 ~~(c) The costs of long-term maintenance and surveillance, if~~
25 ~~required.~~

26 ~~(d) Consideration of the appropriateness of specific~~
27 ~~requirements imposed in the financial assurance regulations~~
28 ~~adopted by the Nuclear Regulatory Commission, including, but~~
29 ~~not limited to, the minimum levels of financial assurance required~~
30 ~~to be provided by different categories of facilities, and the~~
31 ~~categories of facilities which are exempted from the requirement~~
32 ~~to provide a financial surety.~~

33 ~~115092. (a) The department shall deposit all money received~~
34 ~~from a financial surety provided pursuant to Section 115091 in the~~
35 ~~Financial Surety Account, which is hereby created in the Nuclear~~
36 ~~Medicine and Radiological Materials Control Fund.~~

37 ~~(b) Notwithstanding Section 13340 of the Government Code,~~
38 ~~the money in the Financial Surety Account is hereby continuously~~
39 ~~appropriated to the department for expenditure only for the~~
40 ~~decontamination, decommissioning, reclamation, and disposal of~~

1 ~~radioactive materials, and for long-term maintenance and~~
2 ~~surveillance for the protection of the public health and safety and~~
3 ~~the environment, in accordance with subdivision (c), with regard~~
4 ~~to the facility or operations of the licensee who provided the~~
5 ~~financial surety.~~

6 ~~(c) The department may not expend the money in the Financial~~
7 ~~Surety Account for normal operating expenses of the department.~~

8 ~~(d) The department shall, by regulation, establish a procedure~~
9 ~~whereby a licensee may be refunded the amount of the financial~~
10 ~~surety provided by the licensee in excess of any amounts expended~~
11 ~~by the department and any amounts that are required to be retained~~
12 ~~to cover the costs of long-term maintenance and surveillance~~
13 ~~pursuant to subdivision (b), with regard to that licensee's facility~~
14 ~~or operations. The regulations shall specify that the refund may be~~
15 ~~received only after the department has determined that the licensee~~
16 ~~has fully satisfied all of its obligations under its license, and all~~
17 ~~other obligations which the regulations require to be satisfied~~
18 ~~before the licensee may receive a refund.~~

19 ~~(e) If the department finds that a radioactive materials licensee~~
20 ~~is unable to, or is unwilling to, conduct any decontamination,~~
21 ~~decommissioning, reclamation, disposal, or long-term~~
22 ~~maintenance and surveillance that may be necessary, the~~
23 ~~department shall issue an order directing any action and corrective~~
24 ~~measures it finds necessary to protect the public health and safety~~
25 ~~and the environment. The department may undertake, or contract~~
26 ~~for the undertaking of, any actions or corrective measures which~~
27 ~~the licensee fails to satisfactorily complete, and may expend the~~
28 ~~amount of the financial surety provided by the licensee to pay the~~
29 ~~costs of those actions and corrective measures.~~

30 ~~115093. (a) The department shall require, as a condition of~~
31 ~~issuing a license to receive, possess, or transfer radioactive~~
32 ~~materials, or devices or equipment utilizing radioactive materials,~~
33 ~~that the licensee take corrective action with regard to all~~
34 ~~contamination that results from the handling, use, storage, or~~
35 ~~transportation of radioactive materials at the licensee's facility~~
36 ~~regardless of when the contamination commenced at the facility.~~

37 ~~(b) Any corrective action required pursuant to this section shall~~
38 ~~require that corrective action be taken beyond the facility~~
39 ~~boundary if necessary to protect human health and safety or the~~
40 ~~environment, unless the licensee demonstrates to the satisfaction~~

1 of the department that, despite the licensee's best efforts, the
2 licensee is unable to obtain the necessary permission to undertake
3 the corrective action.

4 (e) When corrective action cannot be completed prior to
5 issuance of the license, the license shall contain schedules of
6 compliance for corrective action and assurances of financial
7 responsibility for completing the corrective action.

8
9 Article 5.— Inspection

10
11 115095. Any officer, employee, or agent of the department or
12 of any state or local agency with which an agreement has been
13 made pursuant to Section 114990 shall have the power to enter at
14 all reasonable times upon any private or public property within the
15 jurisdiction of the agency for the purpose of determining whether
16 or not there is compliance with or violation of this chapter,
17 building standards published in the State Building Standards Code
18 relating to buildings in which there are sources of ionizing
19 radiation, or of the regulations adopted pursuant to this chapter,
20 and the owner, occupant, or person in charge of the property shall
21 permit that entry and inspection. Entry into areas under the
22 jurisdiction of the federal government shall be effected only with
23 the concurrence of the federal government or its duly designated
24 representative.

25 115100. (a) The person responsible for registering
26 mammographic X-ray equipment shall be responsible for assuring
27 that the mammographic X-ray equipment under his or her
28 jurisdiction has been inspected and that mammography quality
29 assurance tests are performed by a medical physicist, health
30 physicist, or other individual with qualifications similar to those
31 approved by the department and prescribed in the May 1990
32 version of the "Rules of Good Practice for Supervision and
33 Operation of Mammographic X-Ray Equipment," as approved by
34 the Radiologic Technology Certification Committee.

35 (b) If the department adopts regulations on or after January 1,
36 1993, that provide similar or stronger protection of a patient's
37 health and safety than the "Rules of Good Practice for Supervision
38 and Operation of Mammographic X-Ray Equipment," as
39 determined by the department, then those rules shall no longer
40 apply to this section.

Article 6. ~~Records~~

~~115105. The department shall require each person who acquires, possesses or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer or disposal, and other records as the department may require, subject to exemptions as maybe provided by regulations.~~

~~115110. (a) The department shall require each person who possesses or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by regulations of the department. Copies of these records and those required to be kept in accordance with Section 115105 shall be submitted to the department upon request.~~

~~(b) The department shall adopt reasonable regulations, compatible with those of the United States Atomic Energy Commission, pertaining to reports of exposure of personnel. The regulations shall require that reports of excessive exposure be made to the individual exposed and to the department, and shall make provision for periodic and terminal reports to individuals for whom personnel monitoring is required.~~

~~(c) Section 6411 of the Labor Code shall not be construed as exempting any person from making any report required by this section.~~

~~115115. The person responsible for registering mammographic X-ray equipment or a certified supervisor, as defined in subdivision (i) of Section 114850, shall establish and maintain a Mammography Quality Assurance Program that includes all of the following:~~

~~(a) A Mammography Quality Assurance Manual for the identification of mammography quality assurance tests performed, test frequency, test equipment used, maintenance and calibration of test equipment, and the qualifications of individuals who perform the tests in order to ensure compliance with the May 1990 version of "Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment" or the regulations of the department.~~

~~(b) A "Mammography X-Ray Equipment and Facility Accreditation Certificate" issued by the department that shall be~~

1 ~~posted on each X-ray machine specifically dedicated for the~~
2 ~~purpose of mammography.~~

3
4 ~~Article 7.—Federal State Agreements~~
5

6 ~~115120.—The Governor, on behalf of this state, may enter into~~
7 ~~agreements with the federal government providing for~~
8 ~~discontinuance of certain of the federal government's~~
9 ~~responsibilities with respect to sources of ionizing radiation and~~
10 ~~the assumption thereof by this state. The agreements shall become~~
11 ~~effective only when ratified by law.~~

12 ~~115125.—Any person who, on the effective date of an~~
13 ~~agreement under former Section 115120, as that section read on~~
14 ~~January 1, 2003, possesses a license issued by the federal~~
15 ~~government shall be deemed to possess the same pursuant to a~~
16 ~~license issued under this chapter. The license shall expire either 90~~
17 ~~days after receipt from the department of a notice of expiration of~~
18 ~~the license, or on the date of expiration specified in the federal~~
19 ~~license, whichever is the earlier.~~

20
21 ~~Article 8.—Inspection Agreements and Training Programs~~
22

23 ~~115130.—The department, on behalf of this state, may enter~~
24 ~~into an agreement or agreements with the federal government,~~
25 ~~other states, or interstate agencies, whereby this state will perform~~
26 ~~on a cooperative basis with the federal government, other states,~~
27 ~~or interstate agencies, inspections or other functions relating to~~
28 ~~control of sources of ionizing radiation.~~

29 ~~115135.—The department and any other appropriate state~~
30 ~~agency may institute training programs for the purpose of~~
31 ~~qualifying personnel to carry out this chapter, and may make those~~
32 ~~personnel available for participation in any program or programs~~
33 ~~of the federal government, other states, or interstate agencies in~~
34 ~~furtherance of the purposes of this chapter.~~

35 ~~115140.—An ordinance, resolution, or regulation, in effect on~~
36 ~~or before January 1, 2004, or in effect after that date, of the~~
37 ~~governing body of a city or county relating to radioactive materials~~
38 ~~or other sources of radiation shall not be superseded by this~~
39 ~~chapter, if the ordinance, resolution, or regulation is, and continues~~
40 ~~to be, consistent with this chapter, any amendments to this chapter,~~

1 and the regulations adopted pursuant to this chapter. A city or
2 county may not require the payment of a fee in connection with the
3 activities governed by Section 115065 when a fee is required by
4 the regulations adopted pursuant to that section, and a city or
5 county may not require the payment of a fee in connection with the
6 activities governed by Section 115080 when a fee is required by
7 the regulations adopted pursuant to that section.

8
9 Article 10.— Administrative Procedure

10
11 ~~115145.~~ (a) In any proceeding under this chapter for granting
12 or amending any license, or for determining compliance with, or
13 granting exceptions from, regulations adopted in accordance with
14 this chapter, the department shall afford an opportunity for a
15 hearing on the record upon the request of any person whose
16 interest may be affected by the proceeding, and shall admit that
17 person as a party to the proceeding.

18 (b) A proceeding for the suspension or revocation of licenses
19 under this chapter shall be conducted pursuant to Section 100171.

20 (c) The adoption, repeal, or amendment of regulations pursuant
21 to this chapter shall be accomplished in conformity with Chapter
22 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
23 Title 2 of the Government Code.

24 ~~115150.~~ If the department finds that an emergency exists
25 requiring immediate action to protect the public health and safety,
26 the department may, without notice or hearing, issue a regulation
27 or order reciting the existence of the emergency and requiring that
28 action be taken that the department deems necessary to meet the
29 emergency. Notwithstanding this chapter, the regulation or order
30 shall be effective immediately. Any person to whom the regulation
31 or order is directed shall comply immediately with the order or
32 regulations, but on application to the department shall be afforded
33 a hearing within 15 days. On the basis of the hearing, the
34 department shall continue, modify, or revoke the emergency
35 regulation or order within 30 days after the hearing.

36 ~~115155.~~ Any final order entered in any proceeding under
37 Sections 115145 and 115150 shall be subject to judicial review in
38 the manner prescribed in Chapter 5 (commencing with Section
39 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

1 Article 11.—Injunction Proceedings

2
3 ~~115160.—Whenever, in the judgment of the department, any~~
4 ~~person has engaged in or is about to engage in any act or practice~~
5 ~~that constitutes or will constitute a violation of this chapter, or any~~
6 ~~regulation or order issued pursuant to this chapter, and at the~~
7 ~~request of the department, the Attorney General may apply to the~~
8 ~~superior court for an order enjoining the act or practice, or for an~~
9 ~~order directing compliance, and upon a showing by the department~~
10 ~~that the person has engaged in or is about to engage in any act or~~
11 ~~practice, the court may issue a permanent or temporary injunction,~~
12 ~~restraining order, or other order.~~

13
14 Article 12.—Uses

15
16 ~~115165. It shall be unlawful for any person to use,~~
17 ~~manufacture, produce, knowingly transport, transfer, receive,~~
18 ~~acquire, own, or possess, any source of ionizing radiation subject~~
19 ~~to this chapter unless licensed by or registered with the department~~
20 ~~in accordance with this chapter and the regulations issued pursuant~~
21 ~~to this chapter.~~

22 ~~115170. (a) It is unlawful for any person to manufacture,~~
23 ~~construct, produce, transfer, acquire, use, or possess any of the~~
24 ~~materials or facilities for which a permit or license is required~~
25 ~~under the provisions of the Atomic Energy Act of 1954 (Public~~
26 ~~Law 85-256) and that is subject to this chapter unless he or she shall~~
27 ~~have first obtained a permit or license.~~

28 ~~(b) A violation of this section is a misdemeanor.~~

29
30 Article 13.—Impounding of Materials

31
32 ~~115175.—The department shall have the authority in the event~~
33 ~~of an emergency to impound or order the impounding of sources~~
34 ~~of ionizing radiation in the possession of any person who is not~~
35 ~~equipped to observe or fails to observe this chapter or any~~
36 ~~regulations adopted pursuant to this chapter.~~

37 ~~115210. (a) The city attorney of the city or the district~~
38 ~~attorney of the county in which a violation of this chapter occurs,~~
39 ~~occurred, or will occur, or the Attorney General, at the request of~~
40 ~~the department, may institute on behalf of the people of the State~~

1 of California any civil action necessary to carry out this chapter,
2 including, but not limited to, obtaining an injunction or the
3 imposition of a civil penalty.

4 (b) If a civil penalty is awarded and the action is brought by a
5 city attorney or district attorney, the penalty shall be paid directly
6 to the city or county. If no penalty is awarded or paid, or both, the
7 state is not required to pay the city or county.

8 (c) If a civil penalty is awarded and the action is brought by the
9 Attorney General, the penalty shall be deposited in the General
10 Fund.

11
12 Article 14. — Penalties
13

14 ~~115215.~~ (a) Any person who violates this chapter, any
15 regulation adopted pursuant to this chapter, or any orders issued
16 pursuant to this chapter, is guilty of a misdemeanor and shall, upon
17 conviction, be punished by a fine not to exceed one thousand
18 dollars (\$1,000) or by imprisonment in the county jail for a period
19 not to exceed 180 days, or by both that fine and imprisonment.

20 (b) Any person who knowingly disposes or causes the disposal
21 of any radioactive material regulated by this chapter, or who
22 reasonably should have known that the person was disposing or
23 causing the disposal of the material, at a facility within the state
24 that does have a license for disposal, or at any point in the state that
25 is not authorized by any local, state, or federal agency having
26 authority over radioactive materials, and is in violation of this
27 chapter, or any regulation or order adopted pursuant to this chapter,
28 is guilty of a public offense, and upon conviction, may be punished
29 as follows:

30 (1) If the disposal is found to have caused a substantial danger
31 to the public health or safety, the person may be punished by
32 imprisonment in the county jail for not more than one year, or by
33 imprisonment in the state prison for 16, 24, or 36 months, except
34 as otherwise provided in paragraph (2). The court may also
35 impose, upon a person convicted of violating this subdivision, a
36 fine of not more than one hundred thousand dollars (\$100,000) for
37 each day of violation, except as otherwise provided in paragraph
38 (2).

39 (2) If the act that violated this subdivision caused great bodily
40 injury or caused a substantial probability that death could result,

1 the person convicted may be punished by imprisonment in the state
2 prison for three, five, or seven years and may be fined not more
3 than two hundred fifty thousand dollars (\$250,000) for each day
4 of violation.

5 (e) Any person who knowingly transports or causes the
6 transportation of any radioactive material regulated by this
7 chapter, or who reasonably should have known that the person was
8 causing the transportation of the material, to a facility in the state
9 that does not have a license from the department issued pursuant
10 to this chapter, to any point in the state that is not authorized by this
11 chapter, or to any point in the state that is not authorized by any
12 other local, state, or federal agency having authority over
13 radioactive materials, and is in violation of this chapter, or any
14 regulation or order adopted pursuant to this chapter, is guilty of a
15 public offense and, upon conviction, may be punished as follows:

16 (1) If the transportation is found to have caused a substantial
17 danger to the public health or safety, the person may be punished
18 by imprisonment in the county jail for not more than one year, or
19 by imprisonment in the state prison for 16, 24, or 36 months,
20 except as otherwise provided in paragraph (2). The court may also
21 impose, upon a person convicted of violating this subdivision, a
22 fine of not more than one hundred thousand dollars (\$100,000) for
23 each day of violation, except as provided by paragraph (2).

24 (2) If the transportation that violated this subdivision caused
25 great bodily injury or caused a substantial probability that death
26 could result, the person convicted may be punished by
27 imprisonment in the state prison for three, five, or seven years and
28 may be fined not more than two hundred fifty thousand dollars
29 (\$250,000) for each day of violation.

30 (d) Notwithstanding any other provision of this chapter,
31 radioactive materials used in medical treatment or that result from
32 medical treatment, that are disposed, stored, handled, or
33 transported in a manner authorized pursuant to this chapter, are
34 exempt from subdivisions (b) and (e).

35 (e) Notwithstanding subdivision (a), any person who violates
36 any provision of this chapter relating to mammography or the
37 regulations adopted pursuant to this chapter relating to
38 mammography is guilty of a misdemeanor and shall, upon
39 conviction thereof, be punished by a fine not to exceed five
40 thousand dollars (\$5,000), per day of offense, or by imprisonment

1 in the county jail not to exceed 180 days, or by both that fine and
2 imprisonment.

3 ~~115220. (a) Any person who intentionally or through gross~~
4 ~~negligence violates this chapter, or any regulation adopted~~
5 ~~pursuant to this chapter or who fails or refuses to comply with a~~
6 ~~cease and desist order or other order of the department issued~~
7 ~~pursuant to this chapter, and that action causes a substantial danger~~
8 ~~to the health of others, shall be liable to the department for a civil~~
9 ~~penalty not to exceed five thousand dollars (\$5,000) per day, per~~
10 ~~offense.~~

11 ~~(b) The remedies under this section are in addition to, and do~~
12 ~~not supersede or limit, any and all other remedies, civil or criminal.~~

13
14 ~~Article 15. Effective Date of Licensing Provisions~~

15
16 ~~115225. Subdivision (a) of Section 115060 and other~~
17 ~~provisions of this chapter relating to licensing and the enforcement~~
18 ~~thereof shall become effective only upon execution of an~~
19 ~~agreement pursuant to Section 115120. Section 115080 shall~~
20 ~~become operative on July 1, 1962.~~

21
22 ~~Article 16. Agreement Between the United States Atomic~~
23 ~~Energy Commission and the State of California~~

24
25 ~~115230. The Legislature of the State of California hereby~~
26 ~~ratifies and approves that certain agreement designated as the~~
27 ~~“Agreement between the United States Atomic Energy~~
28 ~~Commission and the State of California for Discontinuance of~~
29 ~~Certain Commission Regulatory Authority and Responsibility~~
30 ~~within the State Pursuant to Section 274 of the Atomic Energy Act~~
31 ~~of 1954, as Amended,” that was approved by the Chairman of the~~
32 ~~Atomic Energy Commission on the ninth day of March 1962,~~
33 ~~under authority of Section 274 of the Atomic Energy Act of 1954,~~
34 ~~as amended (Public Law 86-373), and by the Governor of~~
35 ~~California on the 12th day of March 1962, under authority of and~~
36 ~~in conformity with Section 115120; and the provisions of this~~
37 ~~agreement shall become effective in accordance with Article IX of~~
38 ~~the agreement set forth in former Section 115235, as that section~~
39 ~~read on January 1, 2003.~~

40 ~~115235. The provisions of the agreement are as follows:~~

Article I

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

- A. Byproduct materials;
- B. Source materials; and
- C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

- A. The construction and operation of any production or utilization facility;
- B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;
- D. The disposal of other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Article III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of the product except pursuant to a license or an exemption from licensing issued by the Commission.

Article IV

~~This Agreement shall not affect the authority of the Commission under Subsection 161 b or i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.~~

Article V

~~The State will use its best efforts to maintain continuing compatibility between its program and the program of the Commission for the regulation of like materials. To this end the State will use its best efforts to keep the Commission informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria, and of proposed requirements for the design and distribution of products containing source, byproduct, or special nuclear material, and to obtain the comments and assistance of the Commission thereon.~~

Article VI

~~The Commission will use its best efforts to keep the State informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria and to obtain the comments and assistance of the State thereon.~~

Article VII

~~The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.~~

Article VIII

~~The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the~~

1 Governor of the State, may terminate or suspend this Agreement
2 and reassert the licensing and regulatory authority vested in it
3 under the Act if the Commission finds that such termination or
4 suspension is required to protect the public health and safety.

5
6 Article IX
7

8 This Agreement, upon ratification by law of the State, shall
9 become effective on the ninety first day after the adjournment of
10 the First Extraordinary Session of the 1962 California Legislature
11 or on September 1, 1962, whichever is later, and shall remain in
12 effect unless, and until such time as it is terminated pursuant to
13 Article VIII.

14 SEC. 7. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 SEC. 8.—

24 SEC. 9. (a) The Legislature finds and declares that the
25 transfer of the functions of the radiological health branch and the
26 environmental management branch from the State Department of
27 Health Services to the Department of Toxic Substances Control
28 will increase public safety and improve the level of public service
29 provided by the state.

30 (b) (1) Effective January 1, 2004, Unit 10 scientific positions
31 through first level supervisor, necessary support positions, and
32 program funding that supports these positions in the radiological
33 health and environmental management branches of the State
34 Department of Health Services shall be transferred from the State
35 Department of Health Services to the Department of Toxic
36 Substances Control.

37 (2) "Scientific positions" means junior through senior health
38 physicist classifications. All incumbents in these classifications,
39 and only these incumbents, shall be offered a transfer to the

Department of Toxic Substances Control with no loss of compensation. The transfer includes the following:

HX38	3781	Junior Health Physicist
HX34	3779	Assistant Health Physicist
HX30	3803	Associate Health Physicist
HX20	3802	Senior Health Physicist

(c) The first level supervisor is in the senior health physicist classification.

(d) The second level supervisor shall be a new classification, tentatively titled radiological health program supervisor. Specifications for this new classification shall be developed by the Department of Toxic Substances Control and established by the State Personnel Board as soon as practicable after the transfer takes place.

(e) Management shall consist of a new classification titled radiological health program manager. Minimum education and experience qualifications of the manager classification shall be developed by the Department of Toxic Substances Control and established by the State Personnel Board. The program manager shall be recruited nationally. The program manager shall receive civil service status upon hire.

(f) By January 1, 2005, the Department of Toxic Substances Control shall complete and implement a classification review of the health physicist classification. The review shall be done in consultation with the exclusive representative to ensure that this classification series has the appropriate titles, minimum qualifications, and compensation. The review shall define a rank-and-file senior health physicist classification that has no supervisory duties, but rather handles the most difficult and complex issues.

(g) This provision may not be interpreted to provide personnel in managerial positions above first level supervisor a right to transfer to the Department of Toxic Substances Control. It is the intent of the Legislature that existing personnel in those positions should not, in general, be transferred. Notwithstanding any other provision of law, the state restriction of appointment list does not apply to positions above first supervisor.

1 (h) Effective January 1, 2004, the functions performed on and
2 after January 1, 2003, by both the radiological health branch and
3 the environmental management branch of the State Department of
4 Health Services shall be transferred to the Department of Toxic
5 Substances Control. *Any functions of the environmental health*
6 *branch of the State Department of Health Services that are not*
7 *related to radioactivity shall remain with State Department of*
8 *Health Services.* The Department of Toxic Substances Control
9 shall submit to the Legislature on or before January 1, 2004,
10 recommendations on any statutory changes needed to effectuate
11 the transfer of functions.

12 *SEC. 10. The California Constitution requires the state to*
13 *reimburse local agencies and school districts for certain costs*
14 *mandated by the state. Statutory provisions establish procedures*
15 *for making that reimbursement.*

16 *This bill would provide that no reimbursement is required by this*
17 *act for a specified reason.*

